MONTANA
ADMINISTRATIVE
REGISTER

ISSUE NO. 17 – SEPTEMBER 12, 2025

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BOARD OF OIL AND GAS CONSERVATION
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-230.1

Summary

Amendment of ARM 36.22.1242 pertaining to reports by producers, tax report, and tax rate

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No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 20.

Comments

Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the contact person listed below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025, at 5:00 p.m.

Contact

Ben Jones
(406) 656-0040
bjones@mt.gov or mtogpub@mt.gov

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

36.22.1242 REPORTS BY PRODUCERS – TAX REPORT – TAX RATE

(1) Each owner or operator of an oil or gas well or any other well (except an injection well reported on Form ~~No.~~ 5) ~~shall file or cause to be filed with~~ must submit Form 6 to the board. The form must be submitted by ~~on or before~~ the last day of each month following the month being reported on. Form ~~No.~~ 6 ~~containing~~ must include all information required by ~~said~~ the form and accurately ~~reporting~~ show the status of each well ~~thereon~~ as of the last day of the month reported.

(2) The privilege and license tax is 60 percent of the rate authorized in 82-11-131, MCA, for taxable production. The taxable production is ~~on~~ each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced, saved, and marketed, or stored ~~with~~in the state, or exported ~~therefrom shall be 73.33 percent of the rate authorized in 82-11-131, MCA, (3/10 of 1%) of the market value thereof~~ from the state. This ~~rule is effective on~~ rate applies to all crude petroleum and natural gas produced on and after ~~April 1, 2024~~ April 1, 2026.

Authorizing statute(s): 82-11-111, MCA

Implementing statute(s): 82-11-123, 82-11-131, MCA

Reasonable Necessity Statement

Under current forecast of oil and gas prices and production, the proposed rate reduction will provide adequate income for board operations and other activities required by statute. The proposed rule change has no impact to producers but will provide 0.08% of the market value of

oil and gas produced and sold to be passed to the oil and gas natural resource distribution account and 0.04% of the market value of oil and gas produced and sold to be passed to the damage mitigation account for plugging and reclamation of orphaned and pre-regulatory wells. The proposed effective date of this rulemaking is April 1, 2026.

Small Business Impact

The department has determined that the class or group of businesses that will be affected by this proposed rulemaking are the businesses that are involved in the exploration and production of oil and gas resources. The tax rate paid by oil and gas producers is not changing as a result of this rulemaking. The proposed rulemaking will not have an impact on small businesses. The department has completed a small business impact analysis, which is available upon request.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be e-mailed to the rules coordinator at DNRCRules@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Robert Stutz

Approval

Amanda Kaster, Director

Approval

Steve Durrett, Chair

MONTANA
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DEPARTMENT OF COMMERCE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-359.1

Summary

Amendment of ARM 8.94.3729 pertaining to the Public and Community Facilities Projects Application and Guidelines for the Community Development Block Grant (CDBG) Program

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Hearing Date and Time

Thursday, October 2, 2025, at 9:00 a.m.

Virtual Hearing Information

The Department of Commerce will hold a public hearing via Zoom to consider the proposed amendment of the above-stated rule.

Video: https://mt-gov.zoom.us/j/82719193349?pwd=OSWpjznbF6o42bZBYUBgdLDMLWFg9C.1

Webinar ID: 827 1919 3349

Passcode: 091753

Comments

Interested persons may submit data, views, or arguments orally at the Zoom hearing. Written data, views, or arguments may be submitted to Jada Maynor by email: DOCadministrativerules@mt.gov; or by mail: P.O. Box 200501, Helena, MT 59620. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, September 25, 2025, at 5:00 p.m.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov

General Reasonable Necessity Statement

The Department of Commerce proposes to adopt by reference the updated Public and Community Facilities Projects Application and Guidelines (October 2025) for the Community Development Block Grant program and incorporate the document as rules of the department. The CDBG program is a U.S. Department of Housing and Urban Development pass-through grant program that provides funding to communities for planning, infrastructure, community and public facilities, and housing.

Updates to the document are intended to conform to updated HUD requirements, streamline processes, and simplify language. The updates are intended to reduce excessive and repetitive required documentation and reformat content for better organization. The proposed document can be found at https://commerce.mt.gov/Infrastructure-Planning/Programs-and-Services/Community-Development-Block-Grant/.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

8.94.3729 INCORPORATION BY REFERENCE OF RULES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – ~~COMMUNITY AND~~ PUBLIC AND COMMUNITY FACILITIES PROJECTS APPLICATION AND GUIDELINES

(1) The Department of Commerce adopts and incorporates by reference the ~~Community and~~ Public and Community Facilities Projects Application and Guidelines

as rules for the administration of the Community Development Block Grant (CDBG) Program ~~(July 2024)~~ (October 2025).

(2) The rules incorporated by reference in (1) relate to the scope and procedures for applying and awarding grants to cities, towns, counties, and consolidated governments.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Community MT, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on Community MT's ~~web site at commerce.mt.gov/Housing/Community/Community-Development-Block-Grant-Program/Public-and-Community-Facilities.~~ website at https://commerce.mt.gov/Infrastructure-Planning/Programs-and-Services/Community-Development-Block-Grant/Public-and-Community-Facilities.

Authorizing statute(s): 90-1-103, MCA

Implementing statute(s): 90-1-103, MCA

Small Business Impact

The Community Development Block Grant Public and Community Facility grant program offers significant economic development opportunities across Montana. Cities, towns, and counties often contract with consulting firms to complete professional grant administration services to help the municipality navigate the construction phase of a project and ensure compliance with local, state, and federal rules and regulations. Some consulting firms are considered small businesses, and CDBG construction grants have benefited these firms with expanded project opportunities and increase in workforce as a result of the expanded opportunities. Projects funded by the CDBG Public and Community Facility Grant program increase job creation and retention, assist with business retention, and create economic opportunities throughout Montana in both urban and rural areas. The proposed changes in this rulemaking represent a streamlining of application processes, simplification of language in the manual, and updated HUD requirements. None of the proposed changes will significantly impact the type or amount of the work consulting firms perform on behalf of municipalities for this program. Due to the nature of the proposed changes, it is difficult to determine any specific impact to small businesses or specifically to consulting firms who may qualify as small businesses. For these reasons, no small business impact is available. The proposal does not change any amount paid to or paid by an individual or entity.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Patrick Quinn

Approval

Mandy Rambo, Deputy Director

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OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-329.1

Summary

The Office of the Commissioner of Political Practices (COPP) proposes to amend ARM 44.11.223 and 44.11.227 pertaining to write-in candidates and campaign contribution limits.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 1500.

Comments

Comments may be submitted via email at cppcompliance@mt.gov or via fax at (406) 444-1643. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, October 2, 2025, at 5:00 p.m.

Contact

Scott Cook
406-444-4627
cpphelp@mt.gov
Fax: 406-444-1643

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

44.11.223 AGGREGATE CONTRIBUTION LIMITS FOR WRITE-IN CANDIDATES

(1) A candidate who is unsuccessful in a contested primary election~~, but who complies with applicable statutes to qualify as a write-in candidate for the general election, must file a declaration of intent pursuant to 13-10-211, MCA~~ may not seek election to the same office as a write-in candidate in the general election.

(2) After conclusion of the primary election, t~~T~~he ~~write-in~~ unsuccessful candidate must close his or her ~~primary election~~ campaign account~~,~~ and follow the procedures to dispose of the funds according to ARM 44.11.701 and 44.11.702.

~~(3) The write-in candidate shall not use any primary election funds for his or her general write-in election campaign.~~

~~(4) The write-in candidate shall file a new statement of candidate and, if required, a business disclosure statement, and comply with the aggregate contribution limits for the general election.~~

Authorizing statute(s): 13-37-114, MCA

Implementing statute(s): 13-37-216, 13-37-218, 13-37-240, MCA

Reasonable Necessity Statement

The Commissioner of Political Practices (COPP) proposes amending ARM 44.11.223 to reflect prohibitions on unsuccessful primary election candidates from seeking election to the same

office in the general election adopted by the 2025 Montana Legislature via passage of House Bill 207.

44.11.227 LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS TO A CANDIDATE

(1) Pursuant to the calculation specified in 13-37-216, MCA, limits on total combined contributions by a political committee, other than a political party committee, or by an individual to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than ~~$1,120~~ $1,190;

(b) a candidate for other statewide office may receive no more than ~~$790~~ $830;

(c) a candidate for all other public offices may receive no more than ~~$450~~ $470.

(2) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from political party committees to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than ~~$112,200~~ $118,700;

(b) a candidate for other statewide offices may receive no more than ~~$84,150~~ $89,050;

(c) a candidate for Public Service Commission may receive no more than ~~$16,850~~ $17,800;

(d) a candidate for senate may receive no more than ~~$3,350~~ $3,550;

(e) a candidate for all other public offices may receive no more than ~~$2,250~~ $2,350.

(3) Pursuant to 13-37-216, MCA, all contributions must be included in computing these limitation totals, except the personal services exemption found in ARM 44.11.401.

(4) A candidate may make unlimited contributions to his or her own campaign, but shall report and disclose each contribution and expenditure according to these rules.

Authorizing statute(s): 13-37-114, MCA

Implementing statute(s): 13-37-216, MCA

Reasonable Necessity Statement

COPP proposes amending ARM 44.11.227 to reflect adjustments made to Montana's campaign contribution limits the agency is required to calculate under 13-37-216(3), MCA.

Small Business Impact

The proposed rule changes will impact candidates seeking election to public office and contributors to their campaigns. COPP has determined that there will not be a direct probable significant impact to small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

COPP maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail address of the person wishing to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be sent to COPP via email.

Rule Reviewer

Scott Cook

Approval

Chris J. Gallus, Commissioner

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DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-120.1

Summary

Adopting variance procedures for building codes

Hearing Date and Time

Thursday, October 2, 2025, at 9:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/89284375696

Meeting ID: 892 8437 5696; Password: 143416

Dial by Telephone: +1 646 558 8656

Meeting ID: 892 8437 5696; Password: 143416

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, September 25, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

There is a reasonable necessity to adopt new rules to clarify and standardize the department's process for processing and approving building permits under the state building code. New rules are necessary to implement the requirements of 50-60-206, MCA, and to ensure the due process rights of building permit applicants. The new rules clarify the deadlines for the approval and review of building permits and the right to a hearing. The rules reflect many department practices that are already in place for the processing of building permits, and the rules will not have a significant and direct impact on the majority of building permit applications processed by the state.

Rulemaking Actions

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 DEFINITIONS

(1) "Applicant" means any person applying for a building permit from the department pursuant to the State Building Code.

(2) "Application" means the forms and materials required to complete a request for a building permit from the department.

(3) "Building permit" means an official document issued by the department that authorizes any individual or person to begin construction of a building.

(4) “Complete application” means an application deemed complete by the department in accord with these rules.

(5) “Days” means calendar days, and shall be counted as set forth in Title 1, chapter 1, part 3, MCA.

(6) “Modification” means a change to an application or building plans to ensure compliance with the State Building Code.

(7) “Undue hardship” means the applicant demonstrates that strict compliance with the State Building Code would create a significant difficulty or expense for the applicant based on the applicant’s specific resources and circumstances.

(8) “Variance” means a departure from strict compliance with the State Building Code and does not include the use of alternative means or methods permissible in the building code which meet the purposes set forth in 50-60-201, MCA.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule defines the terms used by the department when processing building code permit applications pursuant to the State Building Code.

NEW RULE 2 BUILDING PERMIT APPLICATION

(1) An applicant shall submit an application to the department for a building permit for any non-exempt building being built, remodeled, moved, or undergoing a change of use.

(2) The application shall be completed on forms provided by the department. The applicant shall include the following information with the application:

(a) a detailed description of the building use, or a description of the building change of use;

(b) any applicable fees pursuant to ARM 24.301.138; and

(c) building plans as described in [NEW RULE 3].

(3) Applications and any attachments may be submitted to the department through the department's online portal, email, or mail to the Building and Commercial Measurements Bureau. Email attachments sized larger than 50 MG may be sent to the department over the state's File Transfer Service.

(4) All applications and any attachments submitted to the department shall be in .pdf format, oriented consistently, and using minimum 12-point font.

(5) When an application is complete, the department shall:

(a) inform the applicant;

(b) begin review of the application; and

(c) notify the state fire prevention and investigation section of the Department of Justice within five days.

(6) The department may request additional information at any time before and during the department's review of the application. A failure of the applicant to provide additional information requested by the department may result in the application being returned unprocessed and no building permit being issued.

(7) Any request for a variance from the State Building Code shall be included in an initial application for a building permit or as soon as practicable after the initial application is submitted. A variance request shall include a statement of undue hardship, and the variance request shall include alternative building plans to protect health, safety, and security.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule standardizes and clarifies how to submit a building permit application to the department and the necessary requirements of a complete building permit application. The rule further ensures the department complies with 50-60-202, MCA, which states that "[t]he state fire prevention and investigation section of the department of justice shall review building plans and regulations for conformity with rules promulgated by the department."

NEW RULE 3 BUILDING PLANS

(1) An application for a building permit shall include building plans and specifications drawn to scale.

(2) The building plans shall clearly indicate the location, nature, and extent of work proposed, and the building plans shall show conformity with the State Building Code.

(3) The building plans shall include:

(a) a site plan locating the proposed building on the property;

(b) a dimensioned floor plan;

(c) identification of the use of each room or area;

(d) a dimensioned typical section through the structure showing footings, foundations, walls, floors, ceilings and roof materials, and details;

(e) material specifications as appropriate; and

(f) all building insulation R-values, and description of heating and ventilation equipment and combustion air provisions and equipment capacity.

(4) The department may request the seal and certification of a licensed Montana engineer for the roof trusses used, and for footing/foundations designs that are not in compliance with the International Building Code, such as a slab on grade.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule standardizes and clarifies the requirements for building plans that shall be included with a building permit application.

NEW RULE 4 FIRE PREVENTION REVIEW

(1) The Department of Justice may submit comments within seven days of the notification of a complete application under [NEW RULE 2].

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-202, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule provides a specific opportunity for comment by the Department of Justice regarding building plans. The department will review timely submitted comments during its decision-making process with regard to applications.

NEW RULE 5 APPLICATION APPROVAL, MODIFICATION, OR DENIAL

(1) If an application includes a variance request, or the department begins initial review of the application and concludes that a variance request is necessary to issue a building permit, the department shall process the application pursuant to [NEW RULE 6]. If the application does not include a variance request, or the department begins an initial review of an application that includes a variance request, and the department determines that a variance request is not necessary to issue a building permit, the department may proceed with processing the application under (3).

(2) The department shall inform the applicant in writing upon receipt of a completed application. The applicant shall submit any additional information requested by the department pursuant to the State Building Code.

(3) The department shall review and make a determination to approve, modify, or deny an application for a building permit within 30 days of receipt of the completed application, as defined in [NEW RULE 2], as follows:

(a) If an application is approved, the department shall issue a building permit.

(b) If an application is approved with modifications, the department shall provide the modifications to the applicant in writing upon issuing the building permit.

(c) If an application is denied, the department shall provide a reason for the denial to the applicant in writing.

(4) If an applicant disagrees with the department's modifications or denial of the permit, the applicant may request a hearing pursuant to [NEW RULE 7] within seven days of the department's determination.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule standardizes and clarifies the processing of building permit applications by the department. The rule implements the 30-day deadline for processing of applications found in 50-60-206(1)(e), MCA. The new rule is necessary to clarify that a public hearing is only required when an application includes a variance request, and the majority of building permit applications submitted to the department do not require a public hearing under 50-60-206(1)(e), MCA ("The department has the power, on satisfactory proof after a public hearing, to: . . . within 30 days make a determination that the application or plans or specifications are in compliance with the provisions of the state building code . . . issue any permit, license, certificate, authorization, or other document required for the construction.") Section 50-60-206(1)(e), MCA, was originally adopted in 1969 as R.C.M. 1947, 69-2114. In over 50 years since the statute was adopted, the department has not required a public hearing on every application for a building permit; to do so would be an absurd interpretation of the statute, and it would be an unnecessary use of time and resources for both the department and applicants. The new rule clarifies that the majority of applications do not require a public hearing; however, a hearing is required when a variance request is made, and a hearing may be requested by an applicant who does not agree with the department's redetermination of the application.

NEW RULE 6 VARIANCE REQUEST

(1) Where a variance request is necessary to issue a building permit the department shall allow the applicant a reasonable time to submit the following:

(a) a variance request that includes the building code being varied;

(b) a statement of undue hardship; and

(c) alternative building plans to protect health, safety, and security.

(2) The department shall inform the applicant in writing upon receipt of a completed variance request.

(3) The applicant shall submit any additional information requested by the department pursuant to the State Building Code, including information to support a statement of undue hardship or alternative building plans.

(4) Before the department approves, denies, or modifies any application for a building permit that includes a variance request, the requirements of [NEW RULE 7] must be satisfied.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 50-60-101, 50-60-102, 50-60-103, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule clarifies and standardizes the department's processing of variance requests made as part of a building permit application. The rule implements the requirement for a hearing on a variance request found in 50-60-206, MCA. A variance request represents a departure from the State Building Code, and the department determines that a public hearing is necessary to properly address the issues of the applicant's claimed undue burden and proposed alternative means of protecting health and safety. A public hearing on a variance request affords the applicant, the department, and the Department of Justice additional time to address issues of safety and health.

NEW RULE 7 HEARING PROCEDURE

(1) A variance request and a request for hearing pursuant to 50-60-206, MCA, are considered a request for declaratory ruling by the department regarding the application of a particular provision of the State Building Code to the application.

(2) The department shall schedule a hearing:

(a) between 21 and 35 days after completion of a variance request that the department determined is necessary for the application; or

(b) not more than 25 days after an applicant requests a hearing pursuant to [NEW RULE 5].

(3) Notice of the hearing shall be posted on the department's website and be provided to the applicant, the Department of Justice, and the interested party list established for this purpose by the department.

(4) The complete application shall be published on the department's website and provided to any person upon request.

(5) The hearing shall be conducted by a hearing officer appointed by the department and may be in-person or over videoconferencing means as determined by the department. The hearing is not bound by common law or the rules of evidence. Questions may be asked only by the hearing officer. The hearing procedure is as follows:

(a) The applicant may explain the project, the need for the variance or other modification, and the legal sufficiency of the application.

(b) Proponents of the application may provide verbal or written comments.

(c) Opponents of the application may provide verbal or written comments.

(d) Informational witnesses, including department staff, may provide verbal or written comment on any issue relevant to the variance request.

(e) The applicant may close and provide rebuttal to comments received.

(6) The department shall consider any comments regarding the application that are received between the date of the publication of notice of the hearing and the time of the close of the hearing.

(7) The hearing officer shall issue a written decision regarding the application. The decision shall include the facts and reasoning supporting the determination.

Authorizing statute(s): 50-60-203, MCA

Implementing statute(s): 2-4-501, 50-60-101, 50-60-102, 50-60-103, 50-60-105, 50-60-108, 50-60-201, 50-60-203, 50-60-205, 50-60-206, MCA

Reasonable Necessity Statement

This new rule implements the requirements of a hearing for a variance request under 50-60-206(1), MCA, or any party aggrieved by a department redetermination under 50-60-206(2), MCA. An applicant requesting a variance or aggrieved by a department redetermination is entitled to a hearing pursuant to the Administrative Procedure Act pursuant to 50-60-206(2) through (4), MCA.

Small Business Impact

These rules are not expected significantly and directly to impact small businesses. The department proposes to adopt rules of procedure to process, consider, and receive feedback for variances from the state building codes. These proposed rules align generally with existing

business practices, but provide for greater clarity for the public and stakeholders as to how to engage in the process. While applicants for variance may have costs associated with applying for a variance, these costs are not increased or exacerbated as a result of these rules. It remains a priority of the department to ensure the timely and efficient processing of variances.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-221.1

Summary

Implementing House Bills 246 (substantial equivalency) and 336 (apprenticeship pathway to licensure) and updating school curricula, premises operation, and application and renewal fees

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Hearing Date and Time

Thursday, October 2, 2025, at 11:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/81763126211

Meeting ID: 817 6312 6211; Password: 926750

Dial by Telephone: +1 646 558 8656

Meeting ID: 817 6312 6211; Password: 926750

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, September 25, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444- 5466
laborlegal@mt.gov

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.121.301 DEFINITIONS

(1) "Apprentice" means a person who is a registered apprentice through the Department of Labor and Industry Workforce Services Division Registered Apprenticeship Program for barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring apprenticeship under [HB 336, Section 1] and applicable rules in this subchapter.

~~(1)~~ (2) "Barber" and "Barbering" include both chemical and nonchemical barbers and barbering, unless otherwise specified in these rules.

~~(2)~~ (3) "Booth renter" means an independent contractor who operates in a licensed salon or shop and is not an employee or owner of the salon or shop.

~~(3)~~ (4) "Chemical compounds" means professionally formulated makeup or cosmetic preparations, tonics, lotions, creams, waxes, depilatories, antiseptics, and other skin care and beautification products used in the provision of esthetic services.

~~(4)~~ (5) "Direct supervision" means the onsite physical presence of a supervisor in the clinic and basic areas of the school, where students perform educational activities and services.

~~(5)~~ (6) "Disinfected" or "disinfection" means eliminating bacteria, viruses, and organisms on inanimate surfaces.

~~(6)~~ (7) "Employee" means a person employed by a licensed premises and paid wages and/or commissions in accordance with federal, state, and local regulations.

~~(7)~~ (8) "Exfoliation" means the sloughing off of nonliving (dead) skin cells by noninvasive means.

~~(8)~~ (9) "Facial shaving" means utilizing a disposable straight edge razor designed for barbering.

~~(9)~~ (10) "Hour" of education in a school is equal to 50 minutes of instructional time.

(11) "Mentor" means a licensee in a sponsor-salon or shop who is supervising the work performed by an apprentice. A mentor must:

(a) have an active license in good standing in the particular area of practice to supervise;

(b) have been licensed for at least six years; and

(c) have been employed and working for at least 1500 hours per year for the previous six years.

~~(10)~~ (12) "Microdermabrasion" means a gentle, progressive, and noninvasive mechanical exfoliation of the stratum corneum using a closed-loop vacuum system.

~~(11)~~ (13) "Mobile salon or shop" means a salon or shop as defined in 37-31-101, MCA, that is readily movable and where licensed services are provided at other than at a fixed location.

~~(12)~~ (14) "Needles" mean single-use, presterilized, and disposable needles of various sizes that are stored in a sterile manner.

~~(13)~~ (15) "Noninvasive" means superficial procedures confined to the nonliving cells of the epidermis, specifically the stratum corneum layer, and through which living cells beneath the stratum corneum are never altered, cut, or scarred.

(16) "Sponsor" means a salon or shop that has entered into an apprenticeship agreement with the registered apprenticeship program per ARM Title 24, chapter 21.

~~(14)~~ (17) "Sterilization" means to completely destroy all living organisms on a surface.

Authorizing statute(s): [House Bill 336], 37-31-203, 37-31-204, MCA

Implementing statute(s): [House Bill 336], 37-31-101, 37-31-203, 37-31-204, 37-31-309, 37-31-311, MCA

Reasonable Necessity Statement

The board is adding three definitions to implement House Bill (HB) 336 providing a licensure pathway via apprenticeships. See the Reasonable Necessity Statement for NEW RULE 3.

Further, the board is amending the definition of "hour" to clarify the definition only applies to schools as apprenticeship hours are based on the 60-minutes clock standard.

24.121.401 FEES

(1) Original and renewal license to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring ~~$ 80~~ $100.

(2) Original and renewal ~~active instructor~~ teacher license ~~95~~ $115.

~~(3) Original and renewal inactive instructor license 85~~

~~(4)~~ (3) Original and renewal school license $220.

~~(5)~~ (4) Additional courses within a cosmetology school $70.

~~(6)~~ (5) School/course inspection $200.

~~(7)~~ (6) Original and renewal salon or shop license ~~85~~ $125.

~~(8)~~ (7) Salon or shop inspection $150.

~~(9)~~ (8) Original and renewal booth rental license ~~75~~ $95.

~~(10) Variance request 20~~

~~(11)~~ (9) Additional standardized fees are specified in ARM 24.101.403.

~~(12) Examination fees must be paid to the examination administration service as contracted by the board. If the board does not contract examination services, the fees must be paid to the board.~~

~~(13) Education evaluation and documentation verification fees for foreign-educated applicants must be paid directly to the approved credential-evaluating service as specified in ARM 24.121.606.~~

~~(14) All individual licenses must be renewed on or before the renewal date set by ARM 24.101.413.~~

~~(15) All school licenses must be renewed on or before the renewal date set by ARM 24.101.413.~~

~~(16) All salon, shop, and booth rental licenses must be renewed on or before the renewal date set by ARM 24.101.413.~~

~~(17) The provisions of ARM 24.101.408 apply.~~

~~(18) Any portion of a year is considered a full year. Fees may not be prorated.~~

~~(19) Fees are nonrefundable.~~

(10) The Board of Barbers and Cosmetologists adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

Authorizing statute(s): 37-1-131, 37-1-134, 37-31-203, 37-31-323, MCA

Implementing statute(s): 37-1-134, 37-1-141, 37-31-302, 37-31-304, 37-31-305, 37-31-311, 37-31-312, 37-31-323, MCA

Reasonable Necessity Statement

In a standard review of board finances, department staff discovered the board's operating costs have been rising in recent years due to an increase in costs associated largely with legal expenses and inspections. Following a fee analysis, the board determined it is reasonably necessary to amend this rule and increase fees to maintain board operations and compliance with 37-1-134, MCA. Under the current fee schedule, the board's cash is projected to drop to below three quarters its appropriation by the end of fiscal year 2026 to $757,242. Boards may retain a cash balance of up to two times their appropriation in order to maintain sufficient funds for operations. Board fees were last increased in 2012.

The board estimates the increase in application and renewal fees will affect approximately 9,553 barber, barber nonchemical, cosmetologist, electrologist, esthetician, manicurist, teacher, salon, shop, and booth renter applicants and licensees annually. The board is not raising fees associated with school applications and renewals or premises inspections.

Salons, shops, and booth renters renew annually by July 1 while the other licensees affected are on a biennial renewal cycle with half of the licensees renewing each year by March 1. The fee increases will result in a projected revenue increase of approximately $245,810 by June 30, 2026. The increase in fees is projected to leave the board with $1,003,052 in ending cash for fiscal year 2026 and $1,013,970 in fiscal year 2027, placing the board in a more stable position to continuously keep between one and one and a half times their operating cash available annually. The board and department will continue to monitor cash reserves in a fiscally prudent manner while maintaining current level of operations.

Additional changes to the rule are to clarify the specific licenses included in (1) and remove unnecessary and duplicative language. The language regarding a variance request fee is

unnecessary because the board repealed the variance request rule in August 2024 and no longer offers variance requests.

The board is striking (12) since the board contracts with an examination administrator and all processes are the contractor's and all fees are set and controlled by the contractor. The board does not develop or administer examinations. Striking (13) avoids repeating language in ARM 24.121.604. The board is striking (14) through (19) as these provisions are already provided in department rules.

The board is adding new (10) to incorporate language regarding fee abatement from ARM 24.121.402 which is being repealed to consolidate all fee language in a single rule.

24.121.403 LICENSE AND REGISTERED APPRENTICE ID CARD DISPLAY REQUIREMENTS

(1) All licensees must display current licenses conspicuously in public view. Addresses on personal licenses may be redacted.

(2) Booth renters must clearly label all areas of the salon or shop maintained by the renter, such as retail, "roll-abouts," carts, and manicure tables.

(3) Apprentices must display current Montana Registered Apprenticeship ID cards conspicuously in public view when providing services to the public in a salon or shop.

Authorizing statute(s): [House Bill 336], 37-31-203, MCA

Implementing statute(s): [House Bill 336], 37-31-203, MCA

Reasonable Necessity Statement

Apprentices are not licensed by the board. However, it is reasonably necessary to require apprentices display their ID cards to prove they are practicing legally in a licensed salon or shop as part of a registered apprenticeship for both the public and inspectors. See also the Reasonable Necessity Statement for NEW RULE 3.

24.121.604 ACCEPTABLE COURSES OF STUDY CONTENT

(1) To qualify for licensure by examination or as an out-of-state applicant, an applicant's course of study or apprenticeship must consist of the hours specified in 37-31-304, MCA, or [NEW RULE 3], and include the following minimum training content:

(a) Barbering:

(i) haircutting with proper ~~uses~~ use of tools;

(ii) shampooing and scalp treatments;

(iii) hairstyling, including weaves, braiding, and extensions;

(iv) wet setting, blow drying, curling, and flat ironing; and the arranging of dry hair;

(v) hair coloring, hair lightening, waving, and relaxing;

(vi) facial shaving with straight edge razor; and

(vii) skin care; or

(viii) if applicant is a Montana-licensed cosmetologist, completion of a supplemental barbering course per ARM 24.121.807.

(b) Barbering nonchemical:

(i) haircutting with proper ~~uses~~ use of tools;

(ii) shampooing and scalp treatments;

(iii) hairstyling, including weaves, braiding, and extensions;

(iv) wet setting, blow drying, curling, and flat ironing; and the arranging of dry hair;

(v) facial shaving with straight edge razor; and

(vi) skin care.

(c) Cosmetology:

(i) manicuring and pedicuring, including massage and polishing, nail art, and use of an electric nail file;

(ii) application and removal of artificial nails, gels, and tips~~, and wraps~~;

(iii) skin care, skin exfoliation, facials, makeup application, epilation, electricity and light therapies, and application of artificial lashes;

(iv) hair coloring, hair lightening, waving, and relaxing;

(v) shampoo and scalp treatments;

(vi) hairstyling, including weaves, braiding, and extensions;

(vii) wet setting, blow drying, curling and flat ironing, and the arranging of dry hair; and

(viii) haircutting with proper ~~uses~~ use of tools.

(d) Electrology:

(i) electrolysis;

(ii) thermolysis;

(iii) the blend;

(iv) electricity, chemistry, and light therapy; and

(v) epilation.

(e) Manicuring:

(i) manicuring;

(ii) pedicuring; and

(iii) applying and removing artificial nails, gels, and tips~~, and wraps~~ and use of an electric file.

(f) Esthetics:

(i) skin care;

(ii) skin exfoliation, facials, and makeup application;

(iii) epilation;

(iv) electricity and light therapies; and

(v) application of artificial lashes.

(2) All board-issued license types have scopes that are limited to noninvasive procedures.

(3) Teacher applicants see ARM 24.121.607.

(4) An individual's theory and classroom practical education for licensure may be obtained through distance learning. All practical distance learning must be two-way, interactive, and real time. All floor work on the general public must occur in-person.

Authorizing statute(s): [House Bill 336], 37-31-203, 37-31-304, MCA

Implementing statute(s): [House Bill 336], 37-31-203, 37-31-304, MCA

Reasonable Necessity Statement

See the Reasonable Necessity Statement for NEW RULE 3. The board is correcting grammar to require proper "use" of tools instead of "uses" and striking nail wraps as they are no longer used in the industry.

24.121.611 EXAMINATION REQUIREMENTS AND PROCESS

(1) Per 37-31-304 and 37-31-305, MCA, or [NEW RULE 3], applicants must pass the National Interstate Council of State Boards of Cosmetology (NIC) theory and practical examinations or their equivalents that align with the license sought.

(a) Minimum examination scores are 75 percent on the theory examination and 75 percent on the practical examination.

(2) Students enrolled in a Montana-licensed school may be made eligible to test by the school following completion of 90 percent of their educational requirements.

(3) Apprentices who have completed 90 percent of their apprenticeships and meet the requirements of 37-31-304(1)(a), MCA, may be made eligible to test by the Montana Registered Apprenticeship Program.

Authorizing statute(s): [House Bill 336], 37-31-203, 37-31-303, MCA

Implementing statute(s): [House Bill 336], 37-31-303, 37-31-304, 37-31-305, MCA

Reasonable Necessity Statement

Currently, students enrolled in a school may be made eligible to test once 90 percent of their education is complete as the board determined that should be sufficient education to pass the exam. The board concluded that the same logic and potential ability to pass the exams should apply to apprentices. Since the Montana Registered Apprenticeship Program is overseeing apprenticeships, it is appropriate for that program to approve apprentices to register for examinations. See also the Reasonable Necessity Statement for NEW RULE 3.

24.121.807 SCHOOL CURRICULA

(1) The minimum required curriculum for an 1100-hour barbering chemical course including at least 150 hours in theory, is:

(a) haircutting ~~(including~~ with proper use of tools ~~implements, e.g., shears, razors, clippers, thinning shears), 185~~ - 225 hours;

(b) shampoo, scalp treatment, and hair styling ~~(thermal and air styling, hair pieces to include weaves and extensions), 165~~ - 150 hours;

(c) skin care and shaving ~~(including facial shaving, facials, massage, essential oils, facial masks), 45~~ - 300 hours;

(d) chemical services ~~(waving, relaxing, hair coloring, and lightening), 295~~ - 300 hours;

(e) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood exposure procedure, and diseases and disorders of skin, hair, and scalp~~,~~ - 60 hours;

(f) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming~~, 75~~ - 60 hours; and

(g) ~~275~~ 5 hours of barbering chemical instruction at the school's discretion.

(2) The minimum required curriculum for a 900-hour barbering nonchemical course including at least 100 hours in theory, is:

(a) haircutting ~~(including~~ with proper use of tools ~~implements, e.g., shears, razors, clippers, and thinning shears),~~ - 225 hours;

(b) shampoo, scalp treatment, and hair styling ~~(thermal and air styling, and hair pieces to include weaves and extensions), 205~~ - 150 hours;

(c) skin care and shaving ~~(including facial shaving, facials, massage, essential oils, and facial masks), 55~~ - 300 hours;

(d) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood exposure procedure, and diseases and disorders of skin, hair, and scalp~~, 75~~ - 60 hours;

(e) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming~~, 90~~ - 60 hours; and

(f) ~~250~~ 105 hours of barbering nonchemical instruction at the school's discretion.

(3) The minimum required curriculum for a 1500-hour cosmetology course including at least 200 hours in theory, is:

(a) manicuring, ~~95~~ 185 hours including:

(i) manicures and pedicures - 35 hours ~~(hand and arm massage and polish)~~;

~~(ii) pedicures (foot, ankle, and lower leg massage, and polish);~~

~~(iii)~~ (ii) application of monomer liquid and polymer powder nail enhancements, nail tips, ~~nail wraps,~~ UV gels, and nail art - 140 hours; and

~~(iv)~~ (iii) use of manicuring implements including the electric nail file - 10 hours;

(b) esthetics, ~~110~~ 350 hours including:

(i) skin care, ~~(~~facials, cosmetics, makeup, massage, ~~essential oils,~~ application and maintenance of artificial eyelashes and extensions, eyelash and eyebrow tinting, ~~and~~ chemical curling of ~~eye lashes~~ eyelashes, and skin exfoliation ~~)~~ - 300 hours; and

~~(ii) skin exfoliation (manual, chemical, and mechanical exfoliation);~~

~~(iii)~~ (ii) waxing ~~and tweezing; and~~ - 50 hours.

~~(iv) electricity and light therapy.~~

(c) shampoo, ~~with~~ scalp treatment, and hair styling ~~(pin curls, finger waving, thermal curling, blow dry styling, braiding, back combing, and wet setting), 195~~ - 150 hours;

(d) chemical services ~~(waving, relaxing (ammonium thioglycolate, sodium hydroxide methods), hair coloring, and hair lightening), 395~~ - 300 hours;

(e) hair cutting ~~(with proper use of shears, razors, clippers, thinning shears), 155~~ - 225 hours;

(f) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current board laws and rules~~, 115~~ - 60 hours;

(g) chemistry, bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, and diseases and disorders of hair, scalp, skin, and nails~~;~~ - 60 hours; and

(h) ~~375~~ 170 hours of cosmetology instruction at the school's discretion.

(4) The minimum required curriculum for a 600-hour electrology course including at least 120 hours in theory, is:

(a) electrolysis - ~~five~~ 5 hours;

(b) thermolysis - 150 hours;

(c) the blend - 150 hours;

(d) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of the skin, electricity, chemistry, and light therapy~~,~~ - 70 hours;

(e) waxing ~~(face, neck, hands, and superfluous hair anywhere on the body, including tweezing),~~ - 10 hours;

(f) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules~~,~~ - 65 hours; and

(g) 150 hours of electrology instruction at the school's discretion.

(5) The minimum required curriculum for a 650-hour esthetics course including at least 65 hours in theory, is:

(a) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of the skin, electricity, chemistry, and light therapy~~, 70~~ - 60 hours;

(b) massage, skin care, makeup, ~~(including the use of vaporizer, high frequency, massage brush, vacuum spray, galvanic unit, and lamps),~~ cosmetics, facials, ~~essential oils, the~~ application and maintenance of artificial eyelashes and extensions, eyelash and eyebrow tinting ~~of the eyelashes and eyebrows~~, ~~the~~ chemical curling of ~~the eye lashes~~ eyelashes, and skin exfoliation ~~(including manual, chemical, and mechanical exfoliation),~~ - 300 hours;

(c) waxing ~~(face, neck, hands, and superfluous hair anywhere on the body, including tweezing),~~ - 50 hours;

(d) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules~~, 70~~ - 60 hours; and

(e) ~~160~~ 180 hours of esthetics instruction at the school's discretion.

(6) The minimum required curriculum for a 400-hour manicuring course including at least 40 hours in theory, is:

(a) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current board laws and rules~~,~~ - 60 hours;

(b) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of skin and nails, basic chemistry, nail product chemistry, and electricity~~, 55~~ - 60 hours;

(c) manicures ~~(including hand and arm massage)~~, pedicures ~~(including foot, ankle, and lower leg massage)~~, polish applications, and the proper use of manicuring implements~~, a minimum of~~ - 35 hours;

(d) use of the electric nail file~~,~~ - 10 hours;

(e) application of monomer liquid and polymer powder nail enhancements, nail tips, ~~nail wraps,~~ UV gels, and nail art~~, a minimum of~~ - 140 hours; and

(f) ~~100~~ 95 hours of manicuring instruction at the school's discretion.

(7) The minimum required curriculum for a 650-hour teacher-training course is:

(a) teaching methods - 245 hours including:

(i) task analysis;

(ii) developing instructional objectives;

(iii) visual aids and their construction;

(iv) motivational tools;

(v) preparation of instructive materials;

(vi) lesson planning ~~(including practical theory and practical demonstration classes)~~;

(vii) fundamentals of speech and public speaking;

(viii) methods of test construction;

(ix) methods of evaluation or grading; and

(x) curriculum planning and development;

(b) general psychology - 75 hours including:

(i) general teaching and counseling principles;

(ii) conflict resolution;

(iii) student counseling;

(iv) student and teacher relationships; and

(v) public relations;

(c) business methods - 115 hours including:

(i) recruitment;

(ii) job analysis;

(iii) student registration, withdrawal, and hours ~~(tracking, completing, calculating, and verifying)~~;

(iv) ethical employee and employer relationships;

(v) salon/booth rental relationship;

(vi) professional ethics; and

(vii) current board laws and rules;

(d) advanced theory of cosmetology, esthetics, manicuring, barbering, or electrology, and the chemistry, safety, sanitation, bacteriology, physiology, anatomy, and diseases and disorders that apply to each course - 75 hours; and

(e) 140 hours of teacher-training instruction at the school's discretion.

(8) "Supplemental barbering course" is a course of study in a licensed school offering a barbering or barbering nonchemical course, consisting of at least ~~125~~ 50 hours in clipper cuts and ~~25~~ 100 hours in facial, neck, and outline shaving, taken by someone licensed in Montana or another jurisdiction to meet the educational requirements for a barber or barber nonchemical license prior to taking the board-approved exam.

Authorizing statute(s): 37-31-203, 37-31-311, MCA

Implementing statute(s): 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend (1) through (6) to ensure the curriculum areas required in licensed Montana schools are consistent with those areas that staff and board already use to evaluate applications from education received in schools outside of Montana under ARM 24.121.604. The adjusted hours specifically reflect current school curricula and standard training based on input from schools and practitioners on the board.

The board is amending the subcategories of course hours to standardize the areas of study that overlap between all professions such as sanitation and salon/shop management and operations. Amendments also standardize the subcategories in those professions with overlapping scopes of practice, including haircutting and shampooing for barbers and cosmetologists and esthetics and manicuring for cosmetologists.

Amendments also update the rule to remove unnecessary examples of specific types of procedures or implements within the curriculum of each profession. It is not possible to list all areas of evolving practice and instruction. Schools already work to develop curricula based on Montana's scopes of practice and national standards of the professions as part of their teaching methodology. Specific examples only create additional red tape and run the risk of including terminology and procedures that are no longer standard in the evolving industry, or missing things that should be included.

References to essential oils in esthetics are being removed as essential oil is not a commonly defined industry term and could be interpreted to include items that have prohibited ingredients.

Additionally, the minimum hours of required education in certain areas of curriculum have also been standardized so the courses that cover the same areas of curriculum are consistent in the number of hours required.

The board is striking nail wraps as they are no longer used in the industry.

The supplemental barber course hours are being amended to more accurately reflect the required training for a licensed cosmetologist to achieve the necessary education and to qualify for a barber or barber nonchemical license. The area of study that cosmetologist education completely lacks is facial shaving, not clipper cuts, which are taught to some degree in a cosmetology course.

24.121.818 SCHOOL EQUIPMENT

(1) All schools must provide:

(a) a separate classroom, other than the clinic floor, for theory or basic classes;

~~(b) adequate restroom facilities for students and faculty;~~

~~(c)~~ (b) one sink for hand washing, not in a restroom;

~~(d)~~ (c) one serviceable school first aid kit;

~~(e)~~ (d) a fire extinguisher;

~~(f)~~ (e) one locker per two students;

~~(g)~~ (f) one protective covering per student; and

~~(h)~~ (g) for the first 15 enrolled students:

(i) two covered wet sanitizers;

(ii) one closed cabinet for clean linens;

(iii) one covered soiled linen container; and

(iv) two covered garbage containers.

~~(i)~~ (h) The required equipment in ~~(h)~~(g) must be doubled for 16 to 30 students and tripled for 31 to 45 students.

(2) In addition to the requirements in (1), each school must ensure adequate equipment and stations for all students to be taught the curriculum of the course(s) the school is licensed to teach.

(3) Each student actively working on the clinic floor must have access to an individual station.

~~(2) All barbering, barbering nonchemical, or cosmetology schools offering separate barbering, barbering nonchemical, or supplemental barbering courses must provide:~~

~~(a) one barber style chair and workstation with mirror per student on the clinic floor; and~~

~~(b) for the first 15 enrolled students:~~

~~(i) two shampoo bowls;~~

~~(ii) one hair dryer (stationary or portable "roll-about"); and~~

~~(iii) one hot lather machine.~~

~~(c) The required equipment in (b) must be doubled for 16 to 30 students and tripled for 31 to 45 students.~~

~~(3) Cosmetology schools must provide:~~

~~(a) one styling chair and workstation with mirror per student on the clinic floor; and~~

~~(b) for the first 15 enrolled students:~~

~~(i) two shampoo bowls;~~

~~(ii) one hair dryer (stationary or portable "roll-about");~~

~~(iii) two manicure tables; and~~

~~(iv) one facial chair.~~

~~(c) The required equipment in (b) must be doubled for 16 to 30 students and tripled for 31 to 45 students.~~

~~(4) Electrology schools must provide:~~

~~(a) an autoclave or dry heat sterilizer;~~

~~(b) stainless steel and gold needles of various sizes per student; and~~

~~(c) a clinical area divided into a minimum of two workstations for the first three enrolled students (one additional station for each additional two students) enclosed by partitions or curtains, and at least ten feet by eight feet in area. Each workstation must include:~~

~~(i) one treatment table or chair;~~

~~(ii) one magnifying lamp;~~

~~(iii) one or more epilators offering either thermolysis, electrolysis, or the blend; and~~

~~(iv) one puncture-resistant sharps container.~~

~~(d) Only presterilized, disposable needles may be used for electrolysis services in a school, unless reusable needles are sterilized using an autoclave.~~

~~(5) Esthetics schools or cosmetology schools offering a separate esthetics course must provide for the first five students:~~

~~(a) one facial bed or chair;~~

~~(b) one magnifying lamp; and~~

~~(c) one facial unit consisting of a vaporizer, high frequency unit, massage brush, vacuum spray, galvanic unit, magnifying lamp, and woods lamp.~~

~~(d) Beds or chairs, and lamps must be increased by one for each additional five students.~~

~~(6) Manicuring schools or cosmetology schools offering a separate manicure course must provide:~~

~~(a) one manicure table with chairs per student; and~~

~~(b) electric nail file and appropriate bits.~~

Authorizing statute(s): 37-31-203, 37-31-311, MCA

Implementing statute(s): 37-31-311, MCA

Reasonable Necessity Statement

The board's regulatory authority over schools and courses is to ensure adequate curriculum for education requirements and to ensure appropriate sanitation and operations on the clinic floor where students are performing services on clients under teacher supervision.

The board has determined it is reasonably necessary to strike (2) through (6) and eliminate specific requirements concerning numbers of stations and amount of equipment to avoid unnecessarily burdensome regulations. The board does not currently have this level of specificity in its requirements for salons and shops in which the same functions are performed

on clients with similar equipment and stations. Rather, the board allows salons and shops the discretion within minimum standards to ensure adequate equipment and stations for providing services to clients based on scheduling. Licensed schools and teachers should be allowed this same discretion for ensuring they have adequate stations and equipment for students based on scheduling of the students' classroom schedules and scheduled clients on the clinic floor.

Additionally, see the Reasonable Necessity Statement for ARM 24.121.1501 for stricken (1)(b) regarding restroom facilities.

24.121.1501 GENERAL PREMISES SANITATION

(1) All areas, fixtures, furniture, floors, walls, windows, doors, and receptacles~~, and restrooms~~ must be clean, safe, and adequately lighted.

(2) Carpeting is prohibited in the working areas~~,~~ and dispensaries~~, and restrooms~~ of all ~~salons, shops, mobile salons or shops, and schools~~ premises licensed on or after November 19, 2004.

(a) Premises licensed prior to this date must use appropriate, nonabsorbent floor covering over the carpet.

(b) Upon alteration or remodeling of the premises, carpet must be removed and replaced with appropriate, nonabsorbent floor covering.

(3) All premises must have:

~~(a) at least one restroom (with a sink):~~

~~(i) on or near the salon or shop premises; or~~

~~(ii) within the confines of the mobile salon or shop; and containing:~~

~~(A) a posted hand washing sign;~~

~~(B) a liquid soap dispenser;~~

~~(C) single service towels or an air dryer;~~

~~(D) a covered garbage container; and~~

~~(E) a locked closet or cabinet if storing chemicals in the restroom;~~

~~(b)~~ (a) one sink convenient to the work areas, but not within a restroom, with hot and cold running water and:

(i) connected to a sewer or septic system; or

(ii) connected to a wastewater holding tank and meeting applicable wastewater laws; and

(iii) a liquid soap dispenser and single service towels or an air dryer;

~~(c)~~ (b) one covered soiled linen container;

~~(d)~~ (c) one covered garbage container; and

~~(e)~~ (d) one enclosed cabinet for storing clean towels and linens.

(4) Licensees must:

(a) place garbage in easily cleanable, leak proof, plastic lined, nonabsorbent covered containers and dump frequently to prevent overflow;

(b) sweep hair clippings after each client; and

(c) dispose of chemicals, liquids, implements, aluminum oxide crystals, or approved corundum in accordance with federal, state, and local regulations.

(5) If the premises has a public restroom used to store chemicals used in a licensee's practice, the chemicals must be stored in a locked cabinet.

Authorizing statute(s): 37-31-203, 37-31-204, MCA

Implementing statute(s): 37-31-204, MCA

Reasonable Necessity Statement

The board has determined it is reasonably necessary to remove the requirement that salons and shops provide restroom facilities as a condition of licensure and operation. Providing access to a restroom for clients is a convenience for customers but not a requirement for practicing under the scopes of practice at a salon or shop. Requiring a restroom in every shop and salon exceeds setting minimum requirements for safe practice at a licensed premises. Therefore, the board is removing this unnecessarily burdensome licensing requirement for both brick and mortar premises and mobile premises. However, the board is adding (5) to ensure the public's safety if a publicly accessible restroom is used to store chemicals used for practice.

24.121.2310 UNPROFESSIONAL CONDUCT

(1) In addition to the provisions of 37-1-316, MCA, it is unprofessional conduct for board licensees to:

(a) violate a federal, state, or local law or rule relating to the conduct of the profession;

(b) fail to cooperate with or respond to a department request or investigation;

(c) fail to report an incident of unsafe practice or unethical conduct of another licensee to the licensing authority;

(d) perform services or use machines or devices that are outside of the licensee's scope of practice;

(e) practice under unsanitary or unsafe conditions;

(f) commit any act of sexual abuse, misconduct, or exploitation whether or not it is related to the licensee's practice; ~~and~~

(g) fail to adequately supervise apprentices; and

~~(g)~~ (h) use the traditional symbol known as the "barber pole," or any likeness thereof, in any manner that may lead the public to believe either that barbering was being practiced in, or that a licensed barber was employed by, a salon or shop that does not employ barbers.

Authorizing statute(s): [House Bill 336], 37-1-319, MCA

Implementing statute(s): [House Bill 336], 37-1-316, 37-1-319, MCA

Reasonable Necessity Statement

The board is amending this rule to implement HB 336. See the Reasonable Necessity Statement for NEW RULE 3.

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 SUBSTANTIAL EQUIVALENCY

(1) The board adopts and incorporates by reference the 2025 substantial equivalency list for the board's publication. The publication is available on the board's website.

(2) The board intends to review the publication annually. However, failure to review or adopt a new list does not change the effectiveness of the adoption in this rule.

(3) License applications from individuals licensed in substantially equivalent states are routine applications as to the education, examination, and experience requirements for licensure. Applications may be nonroutine on other bases.

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 37-1-304, MCA

Reasonable Necessity Statement

The 2025 Montana Legislature passed HB 246 which was signed by the Governor April 3, 2025, and will become effective October 1, 2025. The bill standardizes substantial equivalency determinations in professional licensing and eliminates duplicative statutory sections regarding equivalency and reciprocity.

While historically available to applicants licensed in other states or jurisdictions, licensure by substantial equivalency has never been consistent among the professional licensing boards and programs. HB 246 creates a standard definition for determining substantial equivalency to be uniformly utilized by all the boards and programs when processing endorsement applications. This will create overall efficiencies in processing endorsement applications and reduce licensing wait times for applicants and employers.

To implement the legislation and further the endorsement licensing process, the board is proposing to adopt NEW RULE 1. The board has compared current licensure standards of the fifty United States for board licensees and determined those that are substantially equivalent per the definition in 37-1-302, MCA. This new rule will adopt and incorporate by reference the board's initial approved list of states having substantially equivalent licensing standards. The list will be published on the board's website. The board will analyze other states' licensing standards annually, and update the published list as needed.

NEW RULE 2 LICENSURE BY WORK EXPERIENCE IF JURISDICTION LACKS SUBSTANTIAL EQUIVALENCY

(1) Applicants licensed in states determined to not have substantially equivalent licensing requirements as defined in 37-1-304, MCA, must:

(a) attest to having worked at least the following number of hours if they have not completed a course of study described under 37-31-304, MCA, or an apprenticeship as described in [NEW RULE 3]:

(i) 2200 hours as a licensed barber;

(ii) 1800 hours as a licensed barber nonchemical;

(iii) 3000 hours as a licensed cosmetologist;

(iv) 1200 hours as a licensed electrologist;

(v) 1300 hours as a licensed esthetician; or

(vi) 800 hours as a licensed manicurist; and

(b) pass examinations as described in ARM 24.121.611.

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 37-1-304, MCA

Reasonable Necessity Statement

The 2025 Montana Legislature passed HB 246 which takes effect October 1, 2025. This legislation allows licensing boards to set work experience requirements in lieu of education for applicants licensed in states having licensure requirements that are not substantially equivalent to Montana's, and whose individual hours of completed in-school education or apprenticeship do not meet the board's requirements for initial licensure under 37-31-304, MCA, or NEW RULE 3. The board has concluded that training in a licensed school or provides intensive, directed education that is directly applicable to a person's ability to practice, while general work experience lacks these rigorous learning qualities. As such, the board has determined it is appropriate to require individuals who cannot meet the course of training or apprenticeship requirements to attest to work experience of twice the number of hours required for in-school training.

NEW RULE 3 APPRENTICESHIP CURRICULA REQUIREMENTS

(1) Applicants must complete an apprenticeship under the Montana Registered Apprenticeship Program with a certificate of completion in order for their apprenticeship hours to qualify for licensure.

(2) The minimum required curriculum for a 2200-hour barbering chemical apprenticeship including at least 150 hours in theory, is:

(a) haircutting - 450 hours;

(b) shampoo, scalp treatment, and hair styling - 300 hours;

(c) skin care - 600 hours;

(d) chemical services - 600 hours;

(e) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood exposure procedure, and diseases and disorders of skin, hair, and scalp - 120 hours;

(f) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, 120 hours; and

(g) 10 hours of barbering chemical instruction at the sponsor's discretion.

(3) The minimum required curriculum for a 2000-hour barbering nonchemical apprenticeship including at least 100 hours in theory, is:

(a) haircutting - 450 hours;

(b) shampoo, scalp treatment, and hair styling - 300 hours;

(c) skin care - 600 hours;

(d) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood exposure procedure, and diseases and disorders of skin, hair, and scalp - 120 hours;

(e) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming - 120 hours; and

(f) 410 hours of barbering nonchemical instruction at the sponsor's discretion.

(4) The minimum required curriculum for a 3000-hour cosmetology apprenticeship including at least 200 hours in theory, is:

(a) manicuring - 370 hours including:

(i) manicures;

(ii) pedicures;

(iii) application of monomer liquid and polymer powder nail enhancements, nail tips, UV gels, and nail art; and

(iv) use of manicuring implements including the electric nail file;

(b) esthetics - 700 hours including:

(i) skin care;

(ii) skin exfoliation; and

(iii) waxing.

(c) shampoo, scalp treatment, and hair styling - 300 hours;

(d) chemical services - 600 hours;

(e) hair cutting - 450 hours;

(f) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current board laws and rules - 120 hours;

(g) chemistry, bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, and diseases and disorders of hair, scalp, skin, and nails - 120 hours; and

(h) 340 hours of cosmetology instruction at the sponsor's discretion.

(5) The minimum required curriculum for a 2000-hour electrology apprenticeship including at least 120 hours in theory, is:

(a) electrolysis - 10 hours;

(b) thermolysis - 300 hours;

(c) the blend - 300 hours;

(d) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of the skin, electricity, chemistry, and light therapy - 140 hours;

(e) waxing - 20 hours;

(f) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules - 130 hours; and

(g) 1100 hours of electrology instruction at the sponsor's discretion.

(6) The minimum required curriculum for a 2000-hour esthetics apprenticeship including at least 65 hours in theory, is:

(a) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of the skin, electricity, chemistry, and light therapy - 120 hours;

(b) massage, skin care, makeup, cosmetics, facials, the application and maintenance of artificial eyelashes and extensions, tinting of the eyelashes and eyebrows, the chemical curling of the eye lashes, and skin exfoliation - 600 hours;

(c) waxing - 100 hours;

(d) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules - 120 hours; and

(e) 1060 hours of esthetics instruction at the sponsor's discretion.

(7) The minimum required curriculum for a 2000-hour manicuring apprenticeship including at least 40 hours in theory, is:

(a) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current board laws and rules - 120 hours;

(b) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of skin and nails, basic chemistry, nail product chemistry, and electricity - 120 hours;

(c) manicures, pedicures, polish applications, and the proper use of manicuring implements - 70 hours;

(d) use of the electric nail file - 20 hours;

(e) application of monomer liquid and polymer powder nail enhancements, nail tips, UV gels, and nail art - 280 hours; and

(f) 1390 hours of manicuring instruction at the sponsor's discretion.

(8) Apprentices must complete the following hours of basic training and theory education as described in (1) through (7) before providing any services on the public:

(a) barbering students - 225;

(b) barbering nonchemical students - 150;

(c) cosmetology students - 300;

(d) electrology students - 150 for facial services and 50 for other services;

(e) esthetics students - 150; and

(f) manicuring students - 110.

Authorizing statute(s): [House Bill 336], 37-31-203, MCA

Implementing statute(s): [House Bill 336], 37-31-203, MCA

Reasonable Necessity Statement

The 2025 Montana Legislature passed HB 336 which takes effect October 1, 2025. The bill allows people to qualify for licensure in barbering, barbering nonchemical, cosmetology,

electrology, esthetics, and manicuring through completion of an apprenticeship program overseen by the Department of Labor and Industry Workforce Services Division Registered Apprenticeship Program under Title 39, chapter 6, MCA. Qualifying for licensure through apprenticeships will be in addition to school-based education pathways under existing board statutes and administrative rules. House Bill 336 gives the board the authority to establish requirements for these apprenticeships including education and supervision while adhering to federal apprenticeship requirements under 29 CFR part 29, subpart A, as Montana's program adheres to federal standards. The board is adopting NEW RULE 3 to implement this legislation.

The board determined that training in a licensed school provides intensive, directed experience and training that is directly applicable to a person's ability to practice under licensed teachers, while apprenticeship work experience can be less directed and lacks these rigorous learning qualities. As such, the board concluded it is appropriate to require that individuals who do not meet the course of training hours to complete twice the number of hours for in-school training required in 37-31-304, MCA, and ARM 24.121.807 for barbering (2200 hours) and cosmetology (3000 hours). However, under federal law, all apprenticeships conducted by the Montana Registered Apprenticeship Program must be a minimum of 2000 hours and 144 hours of coursework (one year). Therefore, the board has set the minimum hours for barbering nonchemical, electrology, esthetics, and manicuring at 2000 hours each to meet those minimum standards.

While the number of hours for completion differ, the specific areas of curriculum for apprenticeships set forth in NEW RULE 3 mirror the same subject matter as those required in licensed school and course curricula under ARM 24.121.807. This is because apprentices must learn the same scopes of practice as an individual attending a licensed school/course in order to qualify for licensure. The board is also requiring that apprentices complete the same number of theory hours that students enrolled in a school must complete in ARM 24.121.805 prior to performing services to a member of the public.

NEW RULE 4 MENTORS AND SUPERVISION

(1) Each mentor employed by a sponsor may supervise up to two apprentices.

(2) A mentor must be onsite at the licensed premises and readily available when an apprentice is providing services to a client.

Authorizing statute(s): [House Bill 336], 37-31-203, MCA

Implementing statute(s): [House Bill 336], 37-31-203, MCA

Reasonable Necessity Statement
The board is adopting NEW RULE 4 to implement HB 336 by establishing supervision requirements for mentors at a sponsor employer that are consistent with federal requirements. Mentors may supervise no more than two apprentices per sponsor.

NEW RULE 5 LICENSURE BY APPRENTICESHIP

(1) Applicants for licensure by apprenticeship must:

(a) complete an apprenticeship through the Montana Registered Apprenticeship Program per [NEW RULE 3]; and

(b) pass examinations as described in ARM 24.121.611.

Authorizing statute(s): [House Bill 336], 37-31-203, MCA

Implementing statute(s): [House Bill 336], 37-31-203, MCA

Reasonable Necessity Statement

It is reasonably necessary to adopt NEW RULE 5 to further implement HB 336. This new rule clarifies the application process and requirements for those applying through completed apprenticeships, including passing the requisite theory and practical exams.

REPEAL

The rule proposed to be repealed is as follows:

24.121.402 FEE ABATEMENT

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 17-2-302, 17-2-303, 37-1-134, MCA

Reasonable Necessity Statement

This rule is being repealed as its provisions are being relocated to ARM 24.121.401.

Small Business Impact

Pursuant to 2-4-111, MCA, the Montana small businesses that will probably be affected by the proposed rule changes are salons, shops, and schools that are small businesses. The rules implementing HB 336 provide another avenue to obtain a board license through apprenticeships. The board believes these changes will have positive effects, specifically in rural communities where individuals may remain employed while gaining experience through their apprenticeships and not have to move or regularly commute to another city to attend school, as Montana lacks schools in rural areas. The board is not able to predict how many salons and shops will sponsor apprenticeships, nor is it possible to quantify the small business impact of the new apprenticeship opportunities. The board has determined that the proposed rule changes will not create a significant and direct impact on these small businesses.

The board estimates the increase in application and renewal fees will affect approximately 9,553 barber, barber nonchemical, cosmetologist, electrologist, esthetician, manicurist, teacher, salon, shop, and booth renter applicants and licensees annually. The fee increases will result in a projected revenue increase of approximately $245,810 by June 30, 2026.

Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The primary bill sponsors were contacted by email on June 12, 2025.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

Approval

Paula Evans, Chair, Board of Barbers and Cosmetologists

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-277.1

Summary

This rulemaking proposes the elimination of a business filing fee.

Hearing Date and Time

Friday, October 3, 2025, at 10:00 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.5.120 TRADEMARK FEES

(1)	Registration of mark	$ 20.00, plus $20.00 per each additional class
(2)	Renewal of mark	20.00
(3)	Assignment of mark	20.00
~~(4)~~	~~Cancellation of mark~~	~~20.00~~
~~(5)~~(4)	~~Filing any other statement~~ Change of applicant or registrant name	20.00

~~(6)~~(5) Documents returned because of deficiencies in the filing will not be assessed a resubmission fee.

Authorizing statute(s): 2-15-405, MCA

Implementing statute(s): 2-15-405, 30-13-311, 30-13-313, 30-13-315, 30-13-320, MCA

Reasonable Necessity Statement

As part of the historic effort by Secretary Jacobsen to cut business filing fees, in June 2022, the Secretary eliminated the filing fee for the dissolution of business registrations. Now, the Secretary is proposing to cut an additional fee, specifically eliminating the fee for the cancellation of a trademark registration. Cancellation does not impose a cost on the agency offset by the fee. Moreover, office efficiencies have made filing additional statements obsolete. The proposed change amends “filing any other statement” to changing an applicant or trademark registrant name in accordance with 30-13-315(2), MCA.

Small Business Impact

The Secretary of State's Office conducted a small business impact analysis and identified that there is a positive impact to small businesses filing for a cancellation of a trademark. The proposed change reduces red tape by eliminating the fee for the cancellation of a trademark registration.

It has been determined that these changes will have a minimal fiscal impact. Approximately 80 businesses will save approximately $1,600 annually through elimination of this fee.

A copy of the analysis is available upon request.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-279.1

Summary

This rulemaking is related to the disclosure requirements for paid signature gatherers in the ballot initiative process.

Hearing Date and Time

Friday, October 3, 2025, at 10:30 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 PAID SIGNATURE GATHERERS BADGE REQUIREMENTS

(1) When a paid signature gatherer, as defined in 13-27-112, MCA, approaches anyone about signing a petition, they must wear a badge.

(a) Format and Size of Badge:

(i) The badge must be at least four inches by three inches in size.

(ii) The words on the badge must be in English.

(iii) The first line must contain the paid signature gatherer's full first name and last initial. The second line must state "From" followed by the paid signature gatherer's legal state of residence. The third line must state "Paid Signature Gatherer."

(b) Font on the Badge:

(i) The words must be visible and easy to read on the front of the badge, in either Helvetica or Arial font.

(ii) The words must be in the largest font size possible to fit within the full space on the badge.

(c) Visibility of Badge:

(i) A paid signature gatherer must wear the badge on the outside of all garments, with the badge font lettering facing toward each and every petition signer.

(ii) A paid signature gatherer must not obstruct the visibility of the badge's contents.

(2) Upon proof that petition sheets were gathered by a paid signature gatherer not wearing a badge containing the proper information or by a paid signature gatherer

failing to conform to these rules, the Secretary of State shall not count the applicable signatures.

Authorizing statute(s): 13-1-201, MCA

Implementing statute(s): HB 201 (2025 Legislative Session), 13-27-112, 13-27-307, MCA

Reasonable Necessity Statement

On May 1, 2025, the Governor signed into law House Bill (HB) 201 which requires paid signature gatherers to disclose their status as a paid signature gather and to provide their state of legal residence.

The Secretary proposes NEW RULE 1 to clarify the requirements that signature gatherers must follow when gathering petition signatures, including the format and size of the badge that the paid signature gatherer must wear, the visibility of the badge, and the consequences of the paid signature gatherer failing to wear the applicable badge.

NEW RULE 1 is specifically designed to promote the integrity and security of the ballot initiative process through ensuring uniformity amongst signature gatherers when collecting petition signatures.

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.3.2801 REGISTRATION OF EMPLOYERS OF PAID SIGNATURE GATHERERS

(1) A person who employs a paid signature gatherer shall submit a complete registration form to the Secretary of State's Office prior to collecting signatures on a ballot issue. The registration form is available at sosmt.gov or upon request from the Secretary of State's Office.

(a) A separate registration form is required for each ballot issue.

(b) The registration form must contain contact information for the employer and a list of all persons employed to gather signatures for that ballot issue. If additional persons are employed after the registration form is submitted, an amended form must be submitted.

(c) The filing fee for registration is $0.

(2) Any signatures gathered by a paid signature gatherer prior to the registration of their employer and disclosure of their employment to the Secretary of State's Office shall not be counted.

Authorizing statute(s): ~~13-27-202,~~ 13-27-112, MCA

Implementing statute(s): ~~13-27-202,~~ 13-27-112, MCA

Reasonable Necessity Statement

The Secretary of State proposes to amend ARM 44.3.2801 to clarify the effect of signatures collected by a paid signature gatherer prior to a person who employs the paid signature gatherer submitting a complete registration form to the Secretary of State's Office. The amendment to ARM 4.3.2801 is designed to promote and ensure the integrity and security of the ballot initiative process by providing full effect to 13-27-112, MCA. In addition, the authorizing and implementing statutes are being updated due to the repeal of 13-27-202, MCA.

Small Business Impact

The proposed changes will positively impact registered voters in Montana. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The Secretary of State has satisfied the primary bill sponsor requirements. Representative Braxton Mitchell was notified electronically on August 8, 2025.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-50.1

Summary

This rulemaking is a clean-up package to clarify the role and duties of various election officials through usage of the proper terms in the administrative rules and to implement the definition changes contained in Senate Bill 61 from the 2023 Legislative Session.

Hearing Date and Time

Friday, October 3, 2025, at 9:30 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

44.3.115 CRITERIA AND PROCESS FOR A PERSON TO BECOME A DESIGNATED AGENT FOR AN ELECTOR WITH A DISABILITY

(1) Consistent with 13-1-116, MCA, an elector with a disability who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to Title 13, MCA, and for delivering the disabled elector's absentee ballot application to the county election administrator, as provided in 13-13-213, MCA.

(2) An application for designation of an agent by an elector under this rule:

(a) must be made on a form prescribed by the secretary of state which shall state the authorization of the elector, the purpose of the agency, and shall require that the authorization be witnessed by two disinterested witnesses and signed by the designated agent;

(b) may be obtained from local election officials, from the office of the Secretary of State, and from any other entity that provides the form; and

(c) must be completed in its entirety.

(3) An agent chosen under this rule must not be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union.

(4) An election official <u>or an election worker</u> must ask if the person being designated an agent is the elector's employer or employer's agent or officer or agent of the elector's union. If the proposed agent is one of those individuals, the elector must choose another person to be the elector's agent.

(5) An agent must be chosen by the elector with a disability.

Authorizing statute(s): 13-1-116, MCA

Implementing statute(s): 13-1-116, MCA

Reasonable Necessity Statement

It was necessary to add election workers because a Designation of Agent form referenced in this rule may be submitted to the election office. Since an election worker may receive this form there, they may have the duty to perform the required task.

44.3.1003 FORM AND SUBMISSION OF PETITIONS TO NOMINATE A POLITICAL PARTY'S CANDIDATES BY PRIMARY ELECTION

(1) Any elector, regardless of party affiliation, may present a petition to qualify a political party that does not already qualify to hold a primary election under 13-10-601(1), MCA, to nominate its candidates by primary election. Presented petitions must:

(a) be completed in the form prescribed by the Secretary of State;

(b) be signed by a number of electors equal to the lesser of five percent or more of the total votes cast statewide for the successful candidate for governor at the last general election or 5,000 electors;

(c) be signed by at least 150 electors in at least one-third of legislative house districts; and

(d) have attached to each sheet of the petition a completed verification affidavit for the petition's signatures in the form prescribed by the Secretary of State; and be submitted with original signatures and their verification, as provided in (3), to the official responsible for registration of electors in the county in which the signatures were obtained no sooner than one year and no later than 123 days before the date for the next primary election.

(2) Petitions may be submitted to the county official responsible for registration in whole or in individual sheets or portions of petitions. The petitioning elector shall notify the county ~~official responsible for registration~~ election administrator from the signer's jurisdiction when the final sheet or portion of the petition has been submitted. After this notification, no elector may withdraw their signature from the petition.

(3) The form prescribed by the Secretary of State for petitions under this subchapter shall include at the top of each page a title that identifies the petition as

follows: "Petition to Qualify the [Insert Name] Party as a Political Party Eligible to Nominate its Candidates by Primary Election in Montana." The petition shall include a separate, numbered line extending across the entire page for each elector's signature and identifying information all of which must be entered in ink. The first underlined space on each numbered line shall be labeled as and used for the signature of the elector. The second underlined space on each line shall be labeled as and used for the date of the elector's signature. The third underlined space on each line shall be labeled as and used for the elector's present legal address or phone number. The fourth space on each line shall be labeled as and used to identify the elector's county of residence. The fifth space on each line shall be labeled as and used for the printed last name and first and middle initials of the signer. The end of each page of the petition form shall have the affidavit of circulation required under 13-10-607, MCA, to be completed by the signature gatherer(s).

Authorizing statute(s): 13-10-613, MCA

Implementing statute(s): 13-10-601, 13-10-606, 13-10-607, 13-10-609, MCA

Reasonable Necessity Statement

The Secretary of State proposes revisions in this rule amendment to make the petition process more specific. The new wording requires that the petitioning elector submit petitions to the correct election administrator as specified in 13-27-303, MCA.

44.3.1004 VERIFICATION OF ELECTOR SIGNATURES BY COUNTY ELECTION OFFICIALS, TALLY REPORTING, AND RECORDS RETENTION

(1) Upon receipt of each petition sheet submitted on the petition form prescribed by the Secretary of State and containing a completed affidavit of circulation required under ARM 44.3.1003(1)(c), the county ~~official responsible for registration of electors,~~ election administrator from the jurisdiction of the signers, or their designee, shall:

(a) determine whether each signatory on the petition sheet is a registered voter in ~~the~~ their county, and if so which legislative district that elector is registered;

(b) verify the signature of each elector signing the petition by comparing each elector's petition signature with the signature of that elector as it appears in the records of the county election office; and

(c) determine the total number of verified electors in the county who have signed the petition and how many of the electors reside in each legislative district contained in whole or in part within the county.

Authorizing statute(s): 13-10-613, MCA

Implementing statute(s): 13-10-608, 13-10-609, MCA

Reasonable Necessity Statement

The Secretary of State proposes revisions in this rule amendment to make the petition process more specific. The new wording requires that the petitioning elector submit petitions to the correct election administrator as specified in 13-27-303, MCA.

44.3.1005 WITHDRAWAL OF ELECTOR SIGNATURES FROM PETITIONS

(1) Any time prior to the notification of a final submission of a petition to a county's election ~~official~~ office under ARM 44.3.1003(2), an elector may request to withdraw their signature from a petition submitted under this subchapter.

(2) The county election administrator may withdraw an elector's signature after the identity of the requesting elector has been verified using the same manner the identities of applicants for regular voter registration are verified.

Authorizing statute(s): 13-10-613, MCA

Implementing statute(s): 13-10-606, MCA

Reasonable Necessity Statement

The Secretary of State proposes revisions in this rule amendment to make the petition process more specific. The new wording requires that the petitioning elector submit petitions to the correct election administrator as specified in 13-27-303, MCA.

44.3.1102 STATEWIDE VOTER REGISTRATION SYSTEM

(1) In addition to the procedures specified under (2) and (3) and ARM 44.3.2001, county election ~~officials~~ administrators, election deputies, and election workers authorized to use the statewide voter registration system must, as applicable, comply with the following procedures specified in the instruction manuals, user guides, and technical manuals as provided by the system vendor and the secretary of state (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

(b) proper maintenance and use of active and inactive lists;

(c) proper maintenance and use of lists for legally registered electors and provisionally registered electors and late registrants;

(d) technical security of the statewide voter registration system;

(e) information security with respect to keeping from general public distribution driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115 and 13-21-228, MCA, effective January 1, 2014; and

(f) quality control measures for the system and system users.

(2) Consistent with (1)(d), as soon as a county election administrator enters voter registration information into the statewide voter registration system, the system will automatically make that information available to the Secretary of State.

(3) Consistent with (1)(e):

(a) the driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115, MCA, and 13-21-228, MCA, effective January 1, 2014, may not be provided unless required by a court order; and

(b) all identifying information about an individual protected from disclosure may not be provided, unless required by a court order.

Authorizing statute(s): 13-2-108, MCA

Implementing statute(s): 13-2-108, 13-21-228, MCA

Reasonable Necessity Statement

It is necessary to remove the term “election official” and replace it with “election administrators, election deputies, and election workers” because election judges do not use the voter registration system. “Election workers” are added because they do use the system and are trained in its use.

44.3.2002 DEFINITIONS

As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Current address" means residence address or mailing address. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

~~(2) "Election official" means an election administrator, election deputy, or election judge.~~

~~(3) "Election worker" means an individual designated to perform election support duties.~~

~~(4)~~(2) "Elector" means an individual qualified to vote under state law.

~~(5)~~(3) "Identification" for the purposes of registration means the following:

(a) a Montana driver's license number, Montana state identification card number issued pursuant to 61-12-501, MCA, or the last four digits of the applicant's social security number;

(b) if unable to provide the items in (5)(a), the following alternative forms of identification:

(i) military identification card, tribal photo identification card, United States passport, or Montana concealed carry permit; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address and photo identification that shows the individual's name. The photo identification may include a school district photo identification, postsecondary education photo identification, or any other identification that includes the name and photo of the individual.

~~(6)~~(4) "Legally registered elector" means an elector who was properly registered prior to January 1, 2003, or one who registered on or after that date whose application for voter registration was accepted, processed, and verified as provided by law.

Authorizing statute(s): 13-2-109, MCA

Implementing statute(s): 13-2-110, MCA

Reasonable Necessity Statement

During the 68th Legislative Session, the Governor signed into law Senate Bill (SB) 61, which added the definitions for “election official” and “election worker” to Title 13-1-101, MCA. The Secretary of State’s office proposes to amend these rules because the current rule language does not conform with the new statutory definitions.

44.3.2012 VERIFICATION OF VOTER REGISTRATION INFORMATION

(1) If the information provided by an applicant for voter registration in ARM 44.3.2011 is verified and the applicant meets all other legal requirements for registration, an election ~~official~~ administrator shall register the applicant as a legally registered elector.

(2) Throughout the election process, an election administrator shall, as necessary, work in conjunction with the Office of the Secretary of State, the Department of Justice's Motor Vehicle Division, the Social Security Administration, and any additional agencies to ensure the verification of the accuracy of the information provided in ARM 44.3.2011.

Authorizing statute(s): 13-2-109, MCA

Implementing statute(s): 13-2-110, MCA

Reasonable Necessity Statement

It is necessary to remove the term “election official” and replace it with “election administrator” because the determination of whether an applicant has met legal requirements for registration is the duty of the election administrator and is not part of a judge's duties as per 13-2-109, MCA.

44.3.2013 NOTICE TO APPLICANT OF STATUS OF APPLICATION FOR VOTER REGISTRATION

(1) An election ~~official~~ administrator, election deputy, or election worker shall confirm an elector's registration by a confirmation notice required under 13-2-207, MCA, which is substantially in the form prescribed by the Secretary of State.

(2) An election ~~official~~ administrator, election deputy, or election worker shall provide notice by the most expedient method available to an applicant for voter registration whose voter registration is not confirmed.

Authorizing statute(s): 13-1-202, 13-2-109, MCA

Implementing statute(s): 13-1-202, 13-2-110, MCA

Reasonable Necessity Statement

It is necessary to remove the term “election official” and replace with “election administrator, election deputy, or election worker” because election judges do not use the voter registration system. “Election workers” were added because they do use the system, are trained in its use, and are required to confirm registrations or provide notice when a registration is not confirmed.

44.3.2102 DEFINITIONS

As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Current address" means residence address or mailing address. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

~~(2) "Election official" means an election administrator, election deputy, or election judge.~~

~~(3) "Election worker" means an individual designated to perform election support duties.~~

~~(4)~~(2) "Elector" means an individual qualified to vote under state law.

~~(5)~~(3) "Identification" for the purposes of voting at the polling place, means the following:

(a) Montana driver's license, Montana state identification card issued pursuant to 61-12-501, MCA, military identification card, tribal photo identification card, United States passport, or Montana concealed carry permit; or

(b) a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and

(c) photo identification that shows the elector's name, including but not limited to a school district or postsecondary education photo identification.

~~(6)~~(4) "Legally registered elector" means an elector who was properly registered prior to January 1, 2003, or one who registered on or after that date whose application for voter registration was accepted, processed, and verified as provided by law.

~~(7)~~(5) "Polling place elector identification form" means a form prescribed by the Secretary of State and printed by the election administrator that:

(a) requires an elector to provide the elector's current Montana residential address, current mailing address, date of birth, signature, and date;

(b) requires an elector to provide the elector's Montana driver's license number, Montana state identification card number, or the last four digits of the elector's social security number; and

(c) is permitted to be used by an elector at the polling place as a government document, if the number provided under ~~(7)~~(5)(b) is validated through the statewide voter registration system by an election ~~official~~ administrator, election deputy, or election worker and the elector's information is consistent with the information provided pursuant to ~~(7)~~(5)(a).

~~(8)~~(6) "Polling place greeter" means an election official or election worker who assists electors with voting procedures as they enter the polling place.

~~(9)~~(7) "Polling place manager" means an election official who is responsible for polling place procedures.

~~(10)~~(8) "Reasonable impediment declaration form" means the form allowed by 13-15-107(4), MCA, and prescribed by the Secretary of State.

Authorizing statute(s): 13-13-603, MCA

Implementing statute(s): 13-13-114, 13-13-601, 13-15-107, MCA

Reasonable Necessity Statement

During the 68th Legislative Session, the Governor signed into law Senate Bill (SB) 61, which added the definitions for “election official” and “election worker” to Title 13-1-101, MCA. The

Secretary of State's office proposes to amend these rules because the current rule language does not conform with the new statutory definitions.

44.3.2110 PROCEDURES AT THE POLLING PLACE FOR DETERMINING THE SUFFICIENCY OF IDENTIFICATION - PRIOR TO CASTING A BALLOT

(1) Consistent with 13-13-114, MCA, before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge one of the forms of required identification defined in ARM 44.3.2102.

(2) An election ~~official~~ judge shall allow an elector whose name appears on the precinct register, but who does not provide a required form of identification, to do the following:

(a) return to the polling place with a required form of identification; or

(b) cast a provisional ballot.

(3) An elector who is otherwise eligible to vote and who provides a form of identification shall be permitted to vote as follows:

(a) if the information on the form of identification provided is determined to be sufficient by an election ~~official~~ judge while the elector is at the polling place, the elector shall be provided a regular ballot to vote;

(b) if the information on the form of identification provided is determined to be insufficient by an election ~~official~~ judge while the elector is at the polling place, the elector shall be provided a provisional ballot to vote; and

(c) consistent with 13-13-114, MCA, if the identification provided differs from information in the precinct register, but an election judge determines that the information provided is sufficient to verify the voter's identity to vote pursuant to 13-2-512, MCA, the elector may sign the precinct register, complete a new registration form to update or correct the elector's voter registration information, and vote. An election judge shall write "registration form" in the register beside the name of any elector submitting a form.

(4) Consistent with 13-13-114 and 13-1-116, MCA, if the elector is not able to sign the elector's name to the precinct register, a fingerprint or other identifying mark may be used, or the elector may have an election administrator or election judge, or another person who has been designated by the elector as the elector's agent, provide a signature or identifying mark. If the elector fails or refuses to sign the elector's name or, if unable to write, fails to provide a fingerprint or other identifying mark, the elector may cast a provisional ballot as provided in 13-13-601, MCA, and these rules.

Authorizing statute(s): 13-13-603, MCA

Implementing statute(s): 13-1-116, 13-13-114, MCA

Reasonable Necessity Statement

It was necessary to remove the term “election official” and replace it with “election judge” because the election judge makes the determination of whether to provide an elector a regular or provisional ballot at the polling place per 13-13-114, MCA.

44.3.2114 PROVISIONAL VOTING PROCEDURES ON ELECTION DAY AFTER THE CLOSE OF POLLS - THE SIXTH DAY AFTER ELECTION DAY

(1) Provisional ballots must be handled consistent with 13-15-107, MCA.

(2) The election administrator shall direct election officials in each precinct, after the close of polls on election day, to tally the number of electors who have chosen to cast provisional ballots, but whose voter information is not verified at the polls by the end of election day, in a location specified by the election administrator in the records maintained by election officials.

(3) For verified provisional ballots, an election official shall mark the provisional ballot outer envelope with the reason(s) why it was verified and removed and place the provisional ballot outer envelope in the verified provisional ballot container.

(4) All information regarding electors who have chosen to cast provisional ballots shall remain private at all times prior to and during the counting of provisional ballots and shall not be released prior to, during, or after the counting period without a court order.

(5) Election officials or election workers shall seal the unverified and verified provisional ballot containers and ensure delivery according to the election administrator's instructions.

Authorizing statute(s): 13-13-603, MCA

Implementing statute(s): 13-15-107, 13-15-301, MCA

Reasonable Necessity Statement

It is necessary to add “election workers” because this task is not limited to election officials. Election workers may be authorized by the election administrator to seal ballot containers.

44.3.2115 PROVISIONAL VOTING PROCEDURES - AFTER FINAL DETERMINATION WHETHER OR NOT TO COUNT PROVISIONAL BALLOTS

(1) Election officials, after making the final determination whether or not to count the ballot(s) of each elector who cast a provisional ballot(s) and separately recording the reason(s) why each ballot was cast as a provisional ballot and why each ballot was counted or not counted, shall:

(a) open the verified provisional ballot container, record on the provisional ballot outer envelope the reason(s) for counting the verified provisional ballots, and seal the verified provisional ballot container, which shall not be opened without a court order; and

(b) open the unverified provisional ballot container, and mark on each provisional ballot outer envelope that the elector's vote was not counted, and the reason why not, and all other applicable information, and seal the unverified provisional ballot container, which shall not be opened without a court order.

(2) Election ~~officials~~ administrators, election deputies, or election workers shall notify each elector who cast a provisional ballot, by the most expedient means possible, whether or not the elector's vote was counted, and the reason(s) why or why not.

Authorizing statute(s): 13-1-202, 13-13-603, MCA

Implementing statute(s): 13-1-202, 13-15-107, MCA

Reasonable Necessity Statement

It is necessary to remove the term “election official” and replace it with “election administrators” and “election deputies” because election judges do not perform office duties related to sending notices.

44.3.2202 DEFINITIONS

As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

~~(1) "Election official" means an election administrator, election deputy, or election judge.~~

~~(2) "Election worker" means an individual designated to perform election support duties.~~

~~(3)~~(1) "Elector" means an individual qualified to vote under state law.

Authorizing statute(s): 13-13-212, MCA

Implementing statute(s): 13-13-212, MCA

Reasonable Necessity Statement

During the 68th Legislative Session, the Governor signed into law Senate Bill (SB) 61, which added the definitions for “election official” and “election worker” to 13-1-101, MCA. The Secretary of State’s office proposes to amend these rules because the current rule language does not conform with the new statutory definitions.

44.3.2204 PROCESSES AND PROCEDURES FOR EARLY PREPARATION OF ABSENTEE BALLOTS

(1) The processes and procedures for early preparation of absentee ballots are conducted after completion of or in conjunction with the processes and procedures in 13-13-241(1) through (8), MCA.

(2) The following processes and procedures, when implemented by the election administrator, are intended to ensure the security of ballots and secrecy of votes during the early preparation of ballots not sooner than the earliest time permitted by 13-13-241, MCA. The election administrator shall ensure that the early absentee ballot preparation area:

(a) permits observers to view all procedures;

(b) is arranged to ensure that observers do not interfere with the procedures,

view the votes cast on individual ballots, or knowingly or unintentionally compromise the secrecy of the ballots;

(c) subject to (2)(a) and (2)(b), allows observers to be located not less than 10 feet or more than 20 feet from the boundaries of the area, or a distance determined by the election administrator based on space constraints if these distances are not feasible; and

(d) only allows access by the following, after they have taken and subscribed the official oath prescribed under Article III, section 3 of the Montana Constitution:

(i) officials preparing absentee ballots, who must have identifying badges so that observers can clearly identify who is authorized to prepare ballots; and

(ii) staff authorized by the election administrator.

(3) The election administrator shall maintain the security of the observation area as specified in (2) and by:

(a) ensuring that all individuals in the observation area sign in before being permitted to be present;

(b) prohibiting electronic recording devices in the observation area; and

(c) contacting local law enforcement officials upon the occurrence of any potential or actual breach of security.

(4) The election administrator shall maintain the secrecy of votes during the early preparation of absentee ballots by:

(a) following the procedures specified in (2) and (3);

(b) requiring that election officials and election workers open signature envelopes and secrecy envelopes in a manner to ensure that the identity of the voter cannot be connected to the voter's ballot, either by observers, by election officials, by election workers, or by any authorized staff participating in the early preparation process;

(c) directing election officials and election workers to place the ballots in secure containers sealed with numbered security seals as necessary and when the early preparation process is completed;

(d) handling the ballot as provided in 13-15-201, MCA, for an elector who provides identifying information on the elector's ballot and announcing that an elector has provided identifying information, but not providing the elector's identity; and

(e) instructing election officials and election workers to secure all absentee voting materials consistent with the procedures specified in 13-15-205, MCA.

(5) An absentee ballot early preparation reconciliation form:

(a) must be in the form prescribed by the Secretary of State;

(b) must be provided upon request to any observer;

(c) must be completed as specified on the form; and

(d) when completed, must be posted in the early preparation area at the conclusion of early preparation procedures.

(6) Immediately after early preparation of absentee ballots and until ballot counting begins, the prepared absentee ballots must be stored in secure containers with numbered security seals and:

(a) must be placed in a secure location that prevents unauthorized access;

(b) must not be accessed except by at least two election officials acting together who:

(i) are authorized by the county election administrator;

(ii) have each taken and subscribed the official oath prescribed under Article III, section 3 of the Montana Constitution; and

(iii) sign a log sheet each time that they access the secured ballots.

(7) Election administrators shall maintain and make available for public inspection a security log in a form prescribed by the Secretary of State that accurately tracks seals placed on and removed from any early preparation absentee ballot container.

(8) Nothing in this rule shall be construed to permit an election official <u>or election worker</u> to count absentee ballots or other ballots before the time permitted by statute.

Authorizing statute(s): 13-13-241, MCA

Implementing statute(s): 13-13-241, MCA

Reasonable Necessity Statement

It is necessary to amend this rule to include election workers in tasks related to early preparation of absentee ballots and to require them to protect the privacy of the voter. The absentee board is appointed by the election administrator, who may delegate to an election worker these tasks.

44.3.2302 DEFINITIONS

As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Current address" means residence address or mailing address. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

~~(2) "Election official" means an election administrator, election deputy, or election judge.~~

~~(3) "Election worker" means an individual designated to perform election support duties.~~

~~(4)~~(2) "Elector" means an individual qualified to vote under state law.

~~(5)~~(3) "Identification" for the purposes of voting by absentee and mail ballot means any of the following:

(a) the elector's Montana driver's license number, the elector's Montana state identification card number issued pursuant to 61-12-501, MCA, or the last four digits of the elector's social security number; or

(b) a readable copy of the elector's military identification card, tribal photo identification card, United States passport, Montana concealed carry permit, or a photo identification card issued to the elector by a Montana college or university; or

(c) any other form of readable photo identification with the individual elector's name together with a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, MCA, government check, or other government document that shows the elector's name and current address.

~~(6)~~(4) "Legally registered elector" means an elector who was properly registered prior to January 1, 2003, or one who registered on or after that date whose application for voter registration was accepted, processed, and verified as provided by law.

Authorizing statute(s): 13-13-603, MCA

Implementing statute(s): 13-13-201, 13-13-214, 13-13-241, 13-13-602, 13-15-107, MCA

Reasonable Necessity Statement

During the 68th Legislative Session, the Governor signed into law Senate Bill (SB) 61, which added the definitions for "election official" and "election worker" to 13-1-101, MCA. The Secretary of State's office proposes to amend these rules because the current rule language does not conform with the new statutory definitions.

44.3.2304 PROCEDURES FOR ABSENTEE AND MAIL BALLOT VOTING - DETERMINING THE SUFFICIENCY OF IDENTIFICATION OF PROVISIONALLY REGISTERED ELECTORS

(1) After completion of the signature verification procedures in 13-13-241 or 13-19-309, MCA, as applicable, the election administrator shall determine prior to an election whether a provisionally registered absentee or mail ballot elector has enclosed in the outer signature envelope, together with the voted ballot in the secrecy envelope, sufficient identification as defined in ARM 44.3.2302 to allow the ballot to be counted.

(a) If the identification enclosed in the outer signature envelope is insufficient, an election ~~official~~ administrator, election deputy, or election worker shall follow procedures described in 13-13-241, MCA, and these rules to allow a provisionally registered absentee or mail ballot elector who failed to provide proper identifying information in the outer signature envelope to verify eligibility to vote:

(i) a ballot cast by an elector whose voter identification information is insufficient or whose name does not appear on the precinct register must be handled as a provisional ballot under 13-15-107, MCA;

(ii) an election ~~official~~ administrator, election deputy, or election worker shall notify the absentee or mail ballot elector by mail or by the most expedient method available that the elector's identification was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient identification under ARM 44.3.2302;

(iii) if the elector is notified by mail, an election ~~official~~ administrator, election deputy, or election worker shall provide a self-addressed signature envelope along with a description in the form prescribed by the Secretary of State of the identification necessary for the absentee or mail ballot elector to reclassify the provisional ballot as a regular ballot; and

(iv) to the extent applicable, an election ~~official~~ administrator, election deputy, or election worker shall handle absentee and mail ballot elector provisional ballots in the same manner as specified under the

procedures for provisional ballots cast at the polling place in ARM 44.3.2113, 44.3.2114, and 44.3.2115.

(b) Upon receipt of one of the forms of required identification defined in ARM 44.3.2302, if the identification provided is verified through a voter verification process or another form of identification provided in ARM 44.3.2302 is sufficient:

(i) an election ~~official~~ administrator, election deputy, or election worker shall mark on the absentee or mail ballot signature envelope that sufficient identification was provided by the elector; and

(ii) the county election administrator or designee shall register the elector as a legally registered elector.

(c) An election ~~official~~ administrator, election deputy, or election worker who receives identification information shall retain in a sealed package the copy of identification provided by the provisionally registered absentee or mail ballot elector. The sealed package containing the copy of identification may not be opened without a court order.

Authorizing statute(s): 13-13-603, MCA

Implementing statute(s): 13-13-114, 13-13-201, 13-13-241, MCA

Reasonable Necessity Statement

It is necessary to remove "election official" and replace it with "election administrator" and "election deputy" because election judges do not perform tasks related to mail ballot and absentee voting procedures.

44.3.2402 DETERMINING A VALID VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS

(1) Before being counted, each questionable vote on a paper ballot set aside under 13-15-206, MCA, must be reviewed by the designated board. The board shall evaluate each questionable vote according to the rules below:

(a) If a majority of the designated board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(b) If a majority of the designated board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(2) The following general rules shall apply in a count or recount of paper ballots:

(a) more than one designated voting area has been marked and at least one mark has been erased, but residue is or is not left. The ~~election officials~~ designated board shall cause a vote to be counted for the designated voting area that has been marked;

(b) one designated voting area is marked and at least one other designated voting area is marked with a heavy mark and no erasure has been attempted. The ~~election officials~~ designated board shall cause this to be designated as an overvote;

(c) the designated voting area has been marked for one candidate or ballot issue choice and a partially completed mark is made in at least one other designated voting area. The mark may or may not have some erasure, although for the purpose of this rule erasure is not required. If an erasure is present and it is not sufficient to make the intent of the elector clear, the ~~election officials~~ designated board shall cause this to be designated as an overvote. If no erasure attempt is made, the ~~election officials~~ designated board shall cause this to be designated as an overvote;

(d) the designated voting area has been marked for one candidate or ballot issue choice and a hesitation mark is present within at least one other designated voting area. The ~~election officials~~ designated board shall cause a vote to be counted for the designated voting area that has been marked;

(e) the designated voting area has not been marked according to instructions, but the designated voting area, candidate, or ballot issue choice is circled, underlined, checked, or otherwise clearly marked. The ~~election officials~~ designated board shall cause a vote to be counted for the marked choice;

(f) the designated voting area has not been marked according to instructions, but there is a connective line or arrow between the candidate or ballot issue choice and the designated voting area to indicate the vote. The ~~election officials~~ designated board shall cause a vote to be counted for the marked designated voting area;

(g) more than one designated voting area has been marked, but no clear mark is used to indicate the intended candidate or ballot issue choice. This includes, but is not necessarily limited to, instances in which more than the allowable choices are marked, and an "X" has been marked in either or both of the designated voting areas. The ~~election officials~~ designated board shall cause this to be designated as an overvote;

(h) more than one designated voting area has been marked, but a clear word, mark, or statement is used to indicate the intended vote. The ~~election officials~~ designated board shall cause a vote to be counted for the designated voting area indicated as the intended vote;

(i) a word or statement has been used to indicate the intended vote instead of marking the designated voting area according to instructions. The ~~election officials~~ designated board shall cause a vote to be counted for the designated voting area indicated as the intended vote;

(j) all of the designated voting areas are crossed out. The ~~election officials~~ designated board shall cause this to be designated as an undervote;

(k) a mark is made outside the designated voting area but close enough to the designated voting area to determine voter intent, and the designated voting area is not marked. The ~~election officials~~ designated board shall cause a vote to be counted for the designated voting area determined as the intended vote;

(l) a ballot is marked with different colors or types of marking instruments. The ~~election officials~~ designated board shall cause votes to be counted as marked by the voter unless it is determined that the ballot is otherwise not valid.

Authorizing statute(s): 13-15-206, MCA

Implementing statute(s): 13-15-206, MCA

Reasonable Necessity Statement

It is necessary to replace “election officials” with “designated board” because the term “election officials” restricts membership to election judges, election administrators, and election deputies and the board may consist of anyone appointed by the election administrator. Also, the proposed amendments apply the term “designated board” consistently throughout the rule.

44.3.2403 DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS

(1) Before being counted, each questionable write-in vote on a paper ballot set aside under 13-15-206, MCA, must be reviewed by the designated board. The designated board shall evaluate each questionable vote according to the rules below:

(a) If a majority of the designated board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(b) If a majority of the designated board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(2) Only votes for declared write-in candidates shall be counted. Except as provided in ARM 44.3.2405, a write-in vote may be counted only if the write-in vote identifies an individual by any of the designations filed pursuant to 13-10-211, MCA, and the oval, box, or other designated voting area on the ballot is marked. The following rules shall apply to determining a valid write-in vote in a count or recount of paper ballots, and must be read in conjunction with ARM 44.3.2402:

(a) a name is written in, but the designated write-in voting area is not marked, and no other candidate is selected. The ~~election officials~~ designated board shall cause this to be designated as an undervote;

(b) no candidate name or office is written in, but the designated write-in voting area is marked and no other candidate is selected. The ~~election officials~~ designated board shall cause this to be designated as an undervote;

(c) a printed candidate is selected by marking of the designated voting area, and no name is written in, but the designated write-in voting area is marked. The ~~election officials~~ designated board shall cause a vote to be counted for the printed candidate;

(d) a printed candidate is selected by marking of the designated voting area, any individual's name is written in, and the designated write-in voting area is marked. If the name written in is different from the name of the printed candidate selected, the ~~election officials~~ designated board shall cause this to be designated as an overvote. If the name written in is the same as the name of the printed candidate selected, the ~~election officials~~ designated board shall cause a vote to be counted for the printed candidate selected;

(e) the designated voting area for a printed candidate is marked and the same name is written in, but the designated write-in voting area is not marked. The ~~election officials~~ designated board shall cause a vote to be counted as a vote for the marked designated voting area;

(f) comments are written in which do not indicate a clear vote and no candidate is marked. The election officials shall cause this to be designated as an undervote;

(g) the designated voting area for a printed candidate is marked, a comment is written in, and the corresponding designated write-in voting area is or is not marked. The ~~election officials~~ designated board shall cause this to be counted

as a vote for the printed candidate unless the comment creates uncertainty about who the choice is or directs the ~~election official~~ designated board not to count the vote for the printed candidate selected. In the latter case, the ~~election officials~~ designated board shall cause this to be designated as an undervote;

(h) at least one printed candidate appears as a candidate for the office and the designated voting area is not marked for any printed candidates, but a name is written in that is not the name of a declared write-in candidate and the corresponding designated write-in voting area is or is not marked. The ~~election officials~~ designated board shall cause this to be designated as an undervote.

Authorizing statute(s): 13-15-206, MCA

Implementing statute(s): 13-10-211, 13-15-206, MCA

Reasonable Necessity Statement

It is necessary to replace “election officials” with “designated board” because the term “election officials” restricts membership to election judges, election administrators, and election deputies and the board may consist of anyone appointed by the election administrator. Also, the proposed amendments apply the term “designated board” consistently throughout the rule.

44.3.2710 DISPOSITION OF BALLOTS RETURNED AS UNDELIVERABLE

(1) The election administrator follows the procedures in ~~13-19-313 and~~ 13-13-245 and 13-19-313, MCA, for mail ballots returned by the post office as undeliverable and files and securely retains said ballots.

(2) Whenever election ~~officials~~ administrators, election deputies, or election workers are notified by an elector that the elector has not received a ballot, they may:

(a) check the ballots which have been returned as undeliverable;

(b) if the elector's ballot is found there, then deliver it to the elector, either in person or by mail, after the elector updates the elector's address by submitting a new voter registration card or other written update of the elector's address, either in person or by mail; and

(c) document the action taken in a log maintained for that purpose or in the statewide voter registration system.

(3) Redelivery of a ballot which had been returned as undeliverable is not ~~synonymous to~~ the same as providing a replacement ballot.

(4) The retention and disposition of undeliverable ballots shall be as provided by law for all election materials.

Authorizing statute(s): 13-19-105, MCA

Implementing statute(s): 13-19-313, MCA

Reasonable Necessity Statement

It is necessary to remove the term "election officials" and add "election administrators, election deputies, or election workers" because election judges are not notified when an elector does not receive a ballot, nor do they have office duties requiring them to contact voters. "Election workers" are proposed to be added because they do perform these tasks.

Small Business Impact

The proposed changes will positively impact election officials in Montana with the clarity that the proposed amendments will provide. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The Office of the Secretary of State delivered Senator Ellis notification via letter on April 30, 2025, and by email on August 22, 2025.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-901.1

Summary

This rulemaking proposes to clarify the rules related to business/mark name registration.

Hearing Date and Time

Friday, October 3, 2025, at 11:00 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.5.131 ~~DISTINGUISHABLE ON/IN THE RECORD(S)~~ DISTINGUISHABILITY OF BUSINESS/MARK NAMES

(1) The Secretary of State's role with regard to the registration of business/mark names is ministerial. If a business/mark name is distinguishable from another business/mark name, the Secretary of State is required to file it.

(2) Pursuant to Title 30, chapter 13, MCA, and Title 35, chapters 1, 2, 4, 7, 8, 10, 12, 14, and 18, MCA, "distinguish," "distinguishable," "distinguishable on the record," and "distinguishable in the records" means that a registered business/mark name must be sufficiently distinctive from another registered business/mark name so that it does not cause confusion ~~in an absolute or linguistic sense~~.

(3) The following items make a registered business/mark name distinguishable from another registered business/mark name:

(a) key words are different and do not copy a business/mark name already on record. A "key word" means any word other than articles, prepositions, conjunctions, or business name identifiers as defined in 30-13-201, MCA. For example: "Bill's Carpentry" is distinguishable from "Bill's Builders."

(b) key words are the same, but are in a different order. For example: "Yellowstone Hotel" is distinguishable from "Hotel Yellowstone."

(c) the use of geographic designations. For example: "Helena Auto Painting" is distinguishable from "Boulder Auto Painting."

(d) phonetic similarities or homophones. For example: "Maid in Montana" is distinguishable from "Made in Montana."

(e) abbreviations. For example: "Montana Ave Salon" is distinguishable from "Montana Avenue Salon."

(f) different spellings of proper names. For example: "Jayne's Boutique" is distinguishable from "Jane's Boutique."

(g) unique or improper spelling. For example: "Black Cat Designs" is distinguishable from "Black Kat Designs."

(4) The following conditions ~~will~~ do not make a registered business/mark name distinguishable from another registered business/mark name:

(a) the use of punctuation marks. For example: "R/D Construction" and "R D Construction" are not distinguishable.

(b) the use of special characters. Special characters are non-alphabetical and non-numeric characters such as @, #, $, %, &, *, and + that can represent a word. For example: 25 % Better, Inc. and 25 Percent Better, Inc. are not distinguishable.

(c) the use of articles "a," "an," or "the." For example: "The Painted Pony" and "Painted Pony" are not distinguishable.

(d) the use of prepositions, such as “in,” “on,” or “by.” For example: “In the Water” is not distinguishable from “On the Water” or “By the Water.”

~~(d)~~(e) the use of business name identifiers or their abbreviations. For example: "ABC Inc.," ''ABC Co.," and "ABC Corp." are not distinguishable.

~~(e)~~(f) the substitution of an arabic or roman numeral for a spelled out number. For example: "3 Kings," "III Kings," and "Three Kings~~,~~" are not distinguishable.

~~(f)~~(g) the substitution of a lower case letter for a capital letter. For example: "d" and "D" are not distinguishable.

~~(g)~~(h) the use of internet domain suffixes. For example: .com, .org, .gov, and .net are not distinguishable.

~~(h)~~(i) contractions. For example: "Do Not Stop, Inc." is not distinguishable from "Don't Stop, Inc."

~~(i)~~(j) variations in word endings. For example: "Betsy's Cleaners" is not distinguishable from "Betsy's Cleaning" or “Betsy Cleans,” and "ABC Transport, Inc." is not distinguishable from "ABC Transportation, Co." or “ABC Transported, LLC.”

~~(j)~~(k) adding the letter "s" to make a word~~, including an alphabetism,~~ plural or possessive. For example: "Jay's Market" and "Jays Market" ~~and "RM's Co." and "RMS Co."~~ are not distinguishable. This includes irregular plurals. For example: “Canadian Goose” is not distinguishable from “Canadian Geese.”

~~(k)~~(l) different spacing. For example: "Cross Roads Ranch" and "Crossroads Ranch" are not distinguishable.

(5) In borderline distinguishability cases, additional factors may be considered, including the business purpose and service location.

~~(5)~~(6) The Secretary of State reserves the right to not register business names that are vulgar, ~~or~~ grossly offensive, or misleading.

Authorizing statute(s): 30-13-202, ~~35-1-1307, 35-1-1315,~~ 35-2-1107, 35-14-401, MCA

Implementing statute(s): 30-13-202, 30-13-310, ~~35-1-308, 35-1-310, 35-1-311, 35-1-1031,~~ 35-2-305, 35-2-307, 35-2-826, 35-4-206, 35-7-106, 35-8-103, 35-8-108, 35-10-703, 35-12-505, 35-14-401, 35-18-201, MCA

Reasonable Necessity Statement

The Secretary of State proposes to update and clarify the rules governing business/mark name registration requirements and restrictions to streamline the business filing approval process and promote more efficient and friendly business practices. Additionally, the proposed amendments implement the Montana Business Corporation Act.

Small Business Impact

The proposed changes will positively impact small businesses by clarifying the rules governing business/mark name registration requirements and restrictions, which will streamline the business filing approval process and promote more efficient and friendly business practices. There is no direct fiscal impact from the proposed changes.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or

delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-232.1

Summary

The department proposes to amend and repeal rules in ARM Title 18, chapter 14, subchapter 2 to comply with Senate Bill 309 (2025).

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 25. The department has determined that the members of the advisory council will not be impacted, as they have not received an application for the program in several years, and that individual Montanans will not be impacted, since only local or tribal governments may apply for the program.

Comments

Comments may be submitted to the contact person listed below. Comments must be received by Friday, October 10, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 3, 2025, at 5:00 p.m.

Contact

Aliselina Strong
406-444-9415
astrong@mt.gov

General Reasonable Necessity Statement

This proposed rulemaking is reasonably necessary to comply with Senate Bill 309 (2025) to remove references to the Scenic-Historic Byways Advisory Council.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

18.14.201 DEFINITIONS

For the purpose of this subchapter, the following definitions apply:

~~(1)~~ ~~"Advisory council" means the technical oversight council composed of no more than 11 members who must have expertise in one or more of the subjects of tourism, visual assessment, tribal cultures and history, Montana history, resource protection, economic development, transportation, or planning.~~

~~(2)~~(1) "Commission" means the Transportation Commission provided for in 2-15-2502, MCA.

~~(3)~~(2) "Department" means the Department of Transportation provided for in Title 2, chapter 15, part 25, MCA.

~~(4)~~(3) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

~~(5)~~(4) "Scenic-historic byway" means a public road or segment of a public road that has been designated as a scenic-historic byway by the commission, as provided in 60-2-601, MCA.

~~(6)~~(5) "Tribal government" means a federally recognized government of any Indian tribe, nation, or other organized group, which owns land and has a reservation in Montana.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

18.14.205 REQUIREMENTS OF SCENIC-HISTORIC BYWAY DESIGNATION

(1) The commission may designate roads to be included as part of the programs and may add or delete roads from the program.

(2) The commission may not designate a road as a scenic-historic byway without the concurrence of the affected local governments or tribal governments and the agencies responsible for maintenance and operation of the road.

(3) All land abutting the scenic-historic byway must be either in tribal government ownership within the boundaries of an Indian reservation or in public ownership.

(4) The application shall contain an explanation of the manner in which the byway meets one or more of the intrinsic qualities. In addition, in the application the local government or tribal government shall set forth, to the extent possible, how the scenic-historic byway designation will:

(a) enhance the experience of the traveling public;

(b) stimulate or allow for economic development and new marketing strategies; and

(c) preserve intrinsic resources for the benefit of future generations.

(5) The proposed scenic-historic byway must possess at least one of the following intrinsic qualities:

(a) scenic;

(b) natural;

(c) historic;

(d) cultural;

(e) archeological; or

(f) recreational.

(6) The proposed scenic-historic byway must be an existing road that can safely accommodate expected traffic volumes.

(7) The proposed designation must have concurrence and approval of the application from local governments, tribal governments and agencies with jurisdiction of the road and adjacent to the road.

(8) The application shall contain a conceptual plan. This conceptual plan for the corridor shall describe the process in which a corridor plan is to be developed. The components to be included in the conceptual plan are how the nominating organization proposes to:

(a) enhance and protect the scenic-historic byway;

(b) develop essential services; and

(c) promote and market the byway on the local and regional level. A corridor management plan may be substituted for the conceptual plan.

(9) A corridor management plan must be developed or in development within two years of a scenic-historic byway designation. A scenic-historic byway will not be signed or indicated on the state tourism map until the corridor management plan is complete. The corridor management plan shall:

(a) serve as a visioning tool to provide direction for enhancing and marketing the corridor, but not as:

(i) a land management document;

(ii) zoning tool or mandate;

(iii) highway improvement scoping or prioritization document; or

(iv) highway management document;

(b) accommodate commerce and commercial vehicles;

(c) maintain a safe and efficient level of highway services;

(d) preclude the local or tribal government having adopted the corridor management plan from establishing goals or commitments outside the local or tribal government's jurisdiction; and

(e) accommodate all jurisdictions affected or to be affected.

(10) A scenic-historic byway should be as continuous as possible; however, all government entities shall have the right to require that a portion of a proposed scenic-historic byway abutting in their jurisdiction be excluded from designation.

(11) Each scenic-historic byway must have a management group to provide long-term oversight and marketing for the road.

(12) The proposed route must be ~~recommended by the advisory council for final approval~~ approved by the commission.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

18.14.208 REMOVAL OF MONTANA STATE BYWAY DESIGNATION

(1) The two circumstances that allow for a scenic-historic byway to be removed from designation are:

(a) voluntary removal when local government or tribal government no longer wants its designation; and

(b) nonconformance removal when the scenic-historic byway loses the intrinsic values specified in original nomination for designation.

(2) Removal of scenic-historic byway designation requires:

(a) local governments, tribal governments, and stakeholders to follow steps and procedures provided by the Montana Department of Transportation; and

(b) a ~~recommendation of removal by the advisory council for final approval by~~ vote of the Montana Transportation Commission.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

REPEAL

The rule proposed to be repealed is as follows:

18.14.202 ADVISORY COUNCIL

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

Small Business Impact

The proposed amendments and repeal impact only the department's internal operating processes. The advisory council was established to evaluate state highways eligible for scenic-historic byway designation and recommend such designations to the Transportation Commission. The advisory council completed its work over a decade ago and has not met since, although the annual appointment of new members is still required. Therefore, the small business impact analysis required by 2-4-111, MCA indicates no small businesses are likely to be significantly and directly impacted by the proposed rule amendments. Documentation of the small business impact analysis is available upon request.

Tribal Impact

With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not have direct tribal implications.

Bill Sponsor Notification

The bill sponsor, Senator Beard, was notified by email on June 25, 2025.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Liz Franklin, Staff Attorney

Approval

Christopher Dorrington, Director

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF ADMINISTRATION

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-900.2

Summary

The department has adopted, amended, transferred, and repealed the following banking rules.

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Administration published MAR Notice No. 2025-900.1 proposing changes to the agency's banking rules in the 2025 Montana Administrative Register, Issue Number 14. No hearing was held.

Final Rulemaking Action – Effective September 13, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (2.59.144) REPORT OF SERVICE AND TECHNOLOGY PROVIDERS

NEW RULE 2 (2.59.2201) DEFINITIONS

NEW RULE 3 (2.59.2203) APPLICATION CONTENTS

NEW RULE 5 (2.59.2207) FINGERPRINTING

NEW RULE 6 (2.59.2304) DEPARTMENT TO REVIEW APPLICATION

NEW RULE 7 (2.59.2305) AUTHORITY TO REQUIRE ADDITIONAL INVESTIGATORY INFORMATION - FINGERPRINTING

NEW RULE 8 (2.59.2307) GROUNDS FOR DENYING APPLICATION

NEW RULE 9 (2.59.2308) ADDITIONAL REQUIREMENTS AFTER APPROVAL OF APPLICATION

NEW RULE 10 (2.59.2401) DEFINITIONS

NEW RULE 11 (2.59.2402) CAPITAL ADEQUACY OF A NONDEPOSITORY TRUST COMPANY BANK

ADOPT WITH CHANGES

The agency has adopted the following rule with the following changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE 4 (~~2.59.2206~~ 2.59.2210) INSTITUTION NAME

(1) through (4) remain as proposed.

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

2.59.106 INVESTMENT IN CORPORATE STOCK

2.59.111 RETENTION OF BANK RECORDS

2.59.113 INVESTMENTS BY BANKS TO PROMOTE THE PUBLIC WELFARE

2.59.115 ADOPTION OF EXAMINATION PROCEDURE

2.59.116 DEFINITIONS

2.59.125 DEFINITIONS APPLICABLE TO DERIVATIVE TRANSACTIONS AND SECURITIES FINANCING TRANSACTIONS

2.59.129 CREDIT EXPOSURE ARISING FROM DERIVATIVES AND SECURITIES FINANCING TRANSACTIONS

2.59.130 CHANGE IN CONTROL

2.59.134 CONVERSION OF A NATIONAL BANK TO A STATE BANK

2.59.135 FORM TO REPORT DIRECTORS AND OFFICERS

2.59.902 DEFINITIONS

2.59.903 LOAN PRODUCTION OFFICE

2.59.904 BRANCH BANKS

2.59.906 BANKS ORGANIZED OUTSIDE OF MONTANA BRANCHING INTO MONTANA

2.59.907 CLOSING OR RELOCATING A BRANCH BANK

2.59.1101 APPLICATION PROCEDURE FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK

2.59.1102 REVIEW PROCEDURE FOR APPLICATIONS FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK

TRANSFER AND AMEND AS PROPOSED

The agency has transferred and amended the following rules as proposed:

2.60.203 (2.59.2202) APPLICATION PROCEDURE FOR A CERTIFICATE OF AUTHORIZATION FOR A STATE-CHARTERED BANK

2.60.301 (2.59.2205) PERSUASIVE SHOWING OF REASONABLE PUBLIC NECESSITY AND DEMAND

2.60.303 (2.59.2206) CAPITAL ADEQUACY OF A PROPOSED NEW DEPOSITORY BANK

2.60.304 (2.59.2209) FDIC INSURANCE REQUIRED

2.60.305 (2.59.2204) PRO FORMA STATEMENT

2.60.501 (2.59.2208) A STATE BANK ORGANIZED FOR THE PURPOSE OF ASSUMING DEPOSIT LIABILITY OF ANY CLOSED BANK

2.60.901 (2.59.2302) A STATE BANK ORGANIZED FOR THE PURPOSE OF BEING A SHELL BANK

2.60.902 (2.59.2303) APPLICATION PROCEDURES

2.60.904 (2.59.2306) DECISION OF THE DEPARTMENT; INCORPORATION

2.60.905 (2.59.2309) POWERS OF A SHELL BANK BEFORE MERGER

2.60.906 (2.59.2310) PROOF OF MERGER: REVOCATION OF CERTIFICATE OF AUTHORIZATION

REPEAL

The agency has repealed the following rules as proposed:

2.59.908 TEMPORARY EMERGENCY CLOSURE OF BRANCH

2.59.909 EMERGENCY CLOSURE OF BRANCH

2.59.1901 EXAMINATION FEES

2.60.101 ORGANIZATION OF BOARD

2.60.201 PROCEDURAL RULES

2.60.202 INVESTIGATION RESPONSIBILITY

2.60.204 PROCEDURAL RULES FOR DISCOVERY AND HEARING

2.60.302 MANAGEMENT OF PROPOSED BANK

2.60.903 APPLICATION TO FORM AN INTERIM BANK

2.60.907 FEES

Statement of Reasons

No comments were received. The department, however, discovered a clerical error in the proposal notice resulting in duplicate destination rule numbers. NEW RULE 4, originally proposed to be adopted as ARM 2.59.2206, has been adopted as ARM 2.59.2210.

Contact

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(406) 841- 2922
banking@mt.gov
Montana Relay: 711
Fax: 406-841-2930

Rule Reviewer

Don Harris, Chief Legal Counsel

Approval

Misty Ann Giles

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF COMMERCE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-214.2

Summary

Amendment of ARM 8.94.3730 pertaining to the Affordable Housing Development and Rehabilitation Application Guidelines of the Community Development Block Grant Program

Previous Notice(s) and Hearing Information

On June 27, 2025, the Department of Commerce published MAR Notice No. 2025-214.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 12.

Final Rulemaking Action – Effective September 13, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

8.94.3730 INCORPORATION BY REFERENCE OF RULES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – AFFORDABLE HOUSING DEVELOPMENT AND REHABILITATION PROJECTS APPLICATION GUIDELINES

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

COMMENT NO. 1: A commenter, the policy coordinator at North Central Independent Living Services, Inc. (NCILS) in Black Eagle, Montana, made comments on the draft rules for CDBG

Housing Application Guidelines. NCILS is a center for independent living that is an advocacy agency that serves north-central Montanans with disabilities. The mission of a center for independent living is to assist people with disabilities as they navigate services in order to live in our communities with and without support. As a long-time housing and infrastructure advocate, NCILS has an interest in the Department of Commerce 2025 draft Community Development Block Grant(CDBG) program guidelines manual. NCILS advocates for universal design concepts in housing and development infrastructure. Universal design in the housing and sidewalk infrastructure allows people with disabilities the opportunity, chance, and choice to potentially live and have accessibility needs both in the rental market and the home ownership market. NCILS asks that all supports which support universal design be codified into this manual.

RESPONSE NO. 1: The department requires visitability standards (a zero-step entrance, doors with 32 inches of clear passage space, and a wheelchair-accessible bathroom) to be met in all new construction and when buildings will be substantially rehabilitated. In addition, CDBG projects must meet accessibility and Section 504 standards.

COMMENT NO. 2: NCILS supports accessible inclusive communities and infrastructure neighborhoods that people with disabilities and Montanans who have low income needs can be vital members of our Montana communities.

For our developers and contractors who assist in building these universally designed homes and rental assisted units, NCILS does have concerns regarding mixed-use buildings and historically renovated buildings. Although NCILS understands that these housing opportunities are prime real estate and increase our housing and economic infrastructure, particularly in our downtown areas, they also may increase our housing stock availability for those who have sensory or mental health needs. When a building deals with HUD contracts and changes the useful life of buildings, there can be unintended consequences in accessibility and universal design.

RESPONSE NO. 2: The department encourages all CDBG housing projects to address accessibility where feasible.

COMMENT NO. 3: NCILS believes that the State of Montana needs to utilize funds currently available on American with Disabilities Act (ADA) repairs and accessible units. NCILS knows that CDBG has access to a small ADA repair program which will help bring their projects into ADA and fair housing compliance.

RESPONSE NO. 3: The department does have funds available through the CDBG-Housing Stabilization Program for cities and counties to address single-family rehabilitation issues, including accessibility features, as well as other health and safety issues.

COMMENT NO. 4: The application guidelines establish eligible projects as “CDBG funding may be used to preserve and develop affordable rental housing where no less than 51% of the households have low to moderate incomes.” Does this statement mean that only areas with

LMI over 51% can apply or will the department interpret this on a household-by-household basis? The department is encouraged to clarify this language and apply the LMI requirement on a household-by-household basis or an individual project basis to allow for housing development and rehabilitation in communities that do not meet the 51% LMI on a census tract or other area basis.

RESPONSE NO. 4: Language in the guidelines has been clarified as follows:

"CDBG funding may be used to preserve and develop affordable rental housing where no less than 51% of the households at the property have low to moderate incomes (LMI). If less than 51% of the households at a CDBG-assisted property have LMI, a proportion of the residents of that property equal to the ratio of CDBG funds to total project funds must have LMI. For example, if CDBG funds make up one third of the financing to rehabilitation a multi-family property, one-third of the households residing at that property would need to have LMI. Not that LMI is defined as households earning at or below 80% of area median income, as determined by HUD."

COMMENT NO. 5: The application guidelines state new construction or reconstruction of housing units is required to adopt visibility features. Does the department interpret visibility features as those commonly referred to as "visit-ability" features or universal design, to increase accessibility for persons with a disability?

RESPONSE NO. 5: The typographical error in the guidelines has been corrected to read "visitability."

COMMENT NO. 6: The application guidelines state the period of affordability is connected to the completion of the project and closure of the CDBG award. Does this mean the entire awarded project to the local government that received the CDBG award? For instance, if one property has completed its rehabilitation during the first five-year period of award and a second property has completed its rehabilitation during the fifth year of the five-year award, does the first and second property remain in a period of affordability at the time the local government project is closed or by the individual completed house project? Additionally, who is responsible for tracking the affordability during this period? And what are the requirements to ensure the units remain affordable during the period of affordability?

RESPONSE NO. 6: These guidelines pertain to multi-family projects that typically have one property that is being rehabilitated or constructed. The completion of the identified project and closure of the CDBG award begin the five-year period during which regulation requires the property in which CDBG funds were invested continue to be used for the initial purpose of providing affordable housing to income-eligible households. The requirement will be recorded in a deed restriction to ensure, in the very unlikely event the property were to be sold within five years of completion, the local government and the department would be notified. Because federal CDBG regulations do not specify ongoing compliance monitoring, rather than requiring

annual certification, the department relies on the recorded deed restriction to be made aware of any sale of the property.

COMMENT NO. 7: Can the department further define or provide information as to the reasonableness of the listed underwriting and subsidy layering review?

RESPONSE NO. 7: Because federal CDBG regulations do not provide specific cost, rent, or expense limits, the department has not imposed strict limits, but has included guidance in its Uniform Application, which is linked in the guidelines. Clarification regarding affordable rents has been added to the guidelines as follows:

> While HUD's CDBG regulations do not define rent limits, rents at or below HUD-established fair market rents (FMR) are often used as maximum rents to meet CDBG regulatory requirements to provide affordable rents. FMRs for Montana, by county, are available on HUD's website: https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/2025state_summary.odn.

COMMENT NO. 8: The application guidelines discuss radon remediation stating, "[r]ecipients of CDBG awards will be required to address radon during the environmental review process." Does the department interpret this to mean addressing radon remediation or reduction through individual project activities? Can the guidelines clarify when the radon levels need to be physically addressed during the project?

RESPONSE NO. 8: New construction and rehabilitation projects of multi-family housing typically require addressing National Environmental Policy Act requirements through an environmental assessment or the statutory checklist at 24 CFR Part 58.5. As part of that environmental process, the presence of radon needs to be addressed. Clarification regarding radon testing and mitigation has been added to the guidelines as follows:

> Radon is a naturally occurring gas found in nearly all soils which can enter a building through cracks and permeable areas in the foundation. When radon gas enters an enclosed structure like a building, its concentration can increase over time and pose a hazard to occupants. Testing the air in buildings is the only way to determine radon levels in those buildings. Preventing the entry of radon into a building is the most effective way of protecting building residents. This can be done in new buildings by incorporating radon-resistant construction protocols and in existing buildings by using underground collection systems that vent the gas into the atmosphere through an exterior pipe. Radon levels within buildings can also be reduced by increasing ventilation rates. Recipients of CDBG awards will be required to address radon during the environmental review process. For a newly constructed building, recipients will either need to document the site is not in a radon prone area or demonstrate the building design will include a radon mitigation system. For rehabilitation of an existing building, recipients will need to either provide test results that radon is not present in the building or include installation of a radon mitigation system as part of the rehabilitation scope of work.

COMMENT NO. 9: The application includes outlining the results of a market study or market analysis under Priority A. The question only appears to apply to a need for proposed units.

RESPONSE NO. 9: Question 1 in Priority A does refer to, "an increase in or preservation of." Similar language has been added to the introductory paragraph of Priority A.

COMMENT NO. 10: Can the department clarify how this question should be addressed for those existing units that need rehabilitation through a market study or analysis? Could another plan or study, such as a housing needs assessment, also be used to address housing needs for projects that will address sub-standard existing housing?

RESPONSE NO. 10: Typically, a market study refers to an independent third-party study supporting need in a community for newly constructed rental units. The department recognizes that such a study adds to a project's timeline and expense and has allowed applicants to instead present an analysis of local market conditions to substantiate the need for rehab of existing units or construction of small projects. Clarification regarding market analyses has been added to the guidelines in Priority A, Question 2 as follows:

2. Summarize~~Outline~~ how the results of a Market Study or Market Analysis support the need for the proposed number of units and unit sizes of the property being constructed or rehabilitated, and the resident income levels targeted. The summary may include but not be limited to wait lists at the property to be rehabilitated, local planning documents or studies that show vacancy rates in the local market, and housing choice voucher wait lists, by unit sizes, in the local rental market.

COMMENT NO. 11: The application requests describing "how the requested amount of CDBG funds is only what is necessary to ensure project completion" under Priority C and question 4 related to the Uniform Relocation Act under Priority F. Does an applicant need to have individual projects identified prior to applying? If the individual projects are not identified, how will this impact the ranking under Priority C and Priority F? Can the department clarify what is a "project"? Does this mean an individual property or house or is it the entire awarded grant over the five-year period? Can some of the responses to the questions under Priority C and Priority F, relating to specific properties, individuals, or property owners, describe the process that will be carried out if the specific properties are not individually identified at the time of the application?

RESPONSE NO. 11: Yes, for purposes of these guidelines, applicants must have a specific project identified prior to applying. The project must be new construction or rehabilitation of a multi-family rental property and the activities associated with that work. Communities interested in the CDBG-Housing Stabilization Program to rehabilitate individual single-family homes that are most often owner-occupied, should refer to the CDBG-HSP application, which the department accepts on a rolling basis and is available on the Commerce website.

COMMENT NO. 12: The application requests a Capital Needs Assessment (CNA) to be completed for rehabilitation projects by a licensed professional under Priority D. Can the department define "licensed professional"?

RESPONSE NO. 12: In Priority D, Question 1.b., "licensed architect or engineer" has replaced "licensed professional," to match the language in that question's second paragraph.

COMMENT NO. 13: Does the CNA need to be completed for an entire city or town?

RESPONSE NO. 13: No, a CNA is project-specific.

COMMENT NO. 14: If a CNA is required for a single family home or small property (such as a duplex), can a certified construction contractor provide equivalent information to address the CNA to reduce the costs of rehabilitation? For instance, if an eligible single family house, duplex, or triplex (smaller properties) needs more simplified rehabilitation such as window or roof replacement or modification for accessibility for a disabled individual, can the project avoid the costs of hiring a licensed architect or engineer? Or will the project still be required to hire a licensed architect or engineer to oversee the final rehabilitation? The department is encouraged to eliminate unnecessary expenses for projects that are not required to have a licensed architect or engineer oversee the construction and still meet state or local building codes.

RESPONSE NO. 14: Single-family rehabilitation programs (including up to a fourplex) do not require CNAs. Therefore, a licensed architect or engineer is not required under the CDBG-HSP guidelines to conduct a CNA, to develop a scope of work, or to oversee the work for a single-family rehab project. For rehabilitation projects wishing to be financed under these Housing Rehabilitation and Development Application Guidelines, a CNA is required to provide information about the existing building, the scope of work to be undertaken, and the costs associated with that work. The department's requirement for a CNA (or for site plans and designs for new construction projects) replaces the need for the department's previously required Preliminary Architecture Report for housing projects, which often added a year to a project's implementation schedule and $20,000 to $50,000 in expense. By instead requiring a CNA or site plans and designs, the department hopes to shorten the time frame for implementation of its housing projects, while decreasing the upfront costs communities incur in support of housing projects.

COMMENT NO. 15: The application, under Priority D, asks how broadband will be provided to residents. Does this question mean that all projects with more than four units will be required to provide broadband either through their construction activities or ensure it is already present? Can the department expound on how this question will be scored or ranked if the property has or does not have broadband already provided? And how will the application scoring be impacted if broadband is included as part of the construction activities of the project?

RESPONSE NO. 15: The department includes Priority D, Question 3 to meet the HUD regulation at 24 CFR 570.482(c)(5) that requires any new construction or substantial rehabilitation of a building with more than four rental units to provide broadband, where feasible. Clarification regarding the provision of broadband has been added to the guidelines as follows:

> 3. For construction of buildings with more than four units, describe how broadband infrastructure will be provided to residents as required by HUD regulation. If broadband infrastructure will not be provided at the property, explain why it is not feasible to do so.

COMMENT NO. 16: During the July 17, 2025, public hearing on the program, the department made comments that the CDBG Affordable Housing and Rehabilitation Development Program is intended to fund rental project activities only; however, the program guidelines and application do not indicate that program activities are exclusively funding rental properties.

RESPONSE NO. 16: The narrative on page one, paragraph two indicates these guidelines are for rental housing development and rehabilitation activities. The third paragraph on page one guides those interested in the CDBG-Housing Stabilization Program to rehabilitate single-family homes to the department website, where application guidelines for CDBG-HSP are located.

COMMENT NO. 17: The list of eligible activities does not specify that each activity must result in a rental property. With the increased need to provide affordable housing for Montanans, including preserving the affordable housing we have, the uses for rehab, reuse, or redevelopment as a home ownership activity *or* rental activity is a more broad application to use CDBG funds and creates more opportunities for developers and local governments to work together to take efforts to address housing needs in the community. As an example, the reuse, conversion, or redevelopment of non-residential properties for home ownership can allow innovative and unique ways for local governments and developers to create affordable housing for home ownership and not only rentals. Restricting the use of CDBG funds to only rental activities would also hinder the ability to leverage other housing programs and funding that is required as part of these program guidelines and application. The department is encouraged to keep a broad application of these funds to create rental and home ownership opportunities and clarify in the guidelines that ability to complete activities for all types of long-term housing uses.

RESPONSE NO. 17: The department has not restricted the use of CDBG funds to rental activities only. The application guidelines drafted for this rulemaking process are for multifamily rental properties and differ from the CDBG-HSP guidelines.

A portion of the department's CDBG funds is allocated for housing activities. Within that allocation, the department manages (1) the Housing Rehabilitation and Development program, which covers activities for multifamily rental properties, as well as (2) the CDBG-Housing Stabilization Program, which covers activities for single-family rehabilitation projects, including duplexes, triplexes, and fourplexes. Most of the department's CDBG-HSP recipients target their programs to owner-occupied rehabilitation. The department allows CDBG-HSP recipients the flexibility to rehab rental properties as well.

Neither of the department's CDBG housing programs currently contemplates the development or rehabilitation of existing space into multiple for-sale units. In the recent past, that has not been identified through public comment as a need in Montana communities and may be considered in the future. Through the department's HOME Investment Partnerships Program, funds have occasionally been used for that purpose.

Contact

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Montana Relay: 711

Rule Reviewer

Patrick Quinn

Approval

Mandy Rambo, Deputy Director

MONTANA
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DEPARTMENT OF COMMERCE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-234.2

Summary

Adoption of a new rule (ARM 8.99.919) pertaining to the Opportunities in Rural Economies Program

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Commerce published MAR Notice No. 2025-234.1 pertaining to the public hearing on the proposed adoption of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 14.

Final Rulemaking Action – Effective September 13, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (8.99.919) INCORPORATION BY REFERENCE OF GUIDELINES FOR ADMINISTRATION OF THE OPPORTUNITIES IN RURAL ECONOMIES PROGRAM

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

COMMENT NO. 1: A commenter requested higher scores for the following: (1) a business proposal the meets unfulfilled need in infrastructure, technology, or housing or if it addresses a

need in a social services desert; (2) if a potential investor or entrepreneur is a first-time investor; or (3) if the application proposes to increase broadband.

RESPONSE NO. 1: The detailed scoring rubric is available on the application portal and includes consideration for addressing unmet community needs through the community impact point.

COMMENT NO. 2: A commenter requested clarification on if construction is an eligible expense.

RESPONSE NO. 2: On page 18 of the Guidelines, new language has been added and shows that construction is not an eligible expense.

COMMENT NO. 3: A commenter requested clarification on page 18 under the section heading Ineligible Uses of Funds, regarding whether or not wages are eligible expenses and further clarification on the term “part-time.”

RESPONSE NO. 3: On page 18 of the Guidelines, the term “part-time” has been stricken. Employee wages are not an eligible expense.

Contact

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Rule Reviewer

Amy Barnes

Approval

Mandy Rambo, Deputy Director

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF COMMERCE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-259.2

Summary

Amendment of ARM 8.94.3728 and 8.94.3732 pertaining to the Community Planning Grant Application Guidelines of the Community Development Block Grant Program

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Commerce published MAR Notice No. 2025-259.1 pertaining to the public hearing on the proposed amendment of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 14.

Final Rulemaking Action – Effective September 13, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

8.94.3728 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – PLANNING GRANTS

8.94.3732 SECOND CYCLE FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – PLANNING GRANTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

COMMENT NO. 1: A commenter requested clarifications regarding matching fund examples, when technical guidance documents would be required for grantees to use, Section 3 requirements, grant cycle deadlines in the proposed guidelines and the Consolidated Plan, and how the department will notify the public of the application process and submission due dates.

RESPONSE NO. 1: The department added clarifying language in the sections which the commenter discussed, specifically use of acronyms, Section 3 requirements, and required technical guidelines. Following guidance from the Citizen Participation Plan, the department will announce the availability of funding via the department's Weekly Roundup, a separate email to a listserv of interested parties, and posting on the CDBG Planning website and the Grants and Loans Portal.

COMMENT NO. 2: A commenter stated that accessible and good infrastructure is necessary for all Montanans, including those with disabilities. The commenter requested the department to encourage communities to adopt, implement, and enforce ADA transition plans for accessible sidewalks, alleys, and pathways. Additionally, they stated that the state should explore innovative ways to grow accessible transportation, housing, and infrastructure.

RESPONSE NO. 2: The CDBG program's flexibility empowers people and communities to design and implement strategies tailored to local needs and priorities. CDBG applicants prioritize their community needs prior to applying for funding. ADA transition plans, self-evaluations, and inventories are eligible CDBG planning applications.

Contact

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Rule Reviewer

April Armstrong

Approval

Mandy Rambo, Deputy Director

BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-167.2

Summary

Implementation of Senate Bill (SB) 166 (2025) and adoption of a rolling 30-month period for examination credits

Previous Notice(s) and Hearing Information

On June 27, 2025, the Board of Public Accountants (agency) published MAR Notice No. 2025-167.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 12.

On July 22, 2025, a public hearing was held on the proposed rulemaking via the videoconference and telephonic platform.

Final Rulemaking Action – Effective September 13, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE REQUIREMENTS

24.201.503 APPLICANT FOR INITIAL LICENSE

24.201.516 GRANTING OF EXAMINATION CREDIT

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: One commenter thanked the board for changing the exam credit validity from 18 months to 30 months.

Response 1: The board appreciates all comments received during the rulemaking process.

Comment 2: One commenter suggested the board apply the rule to exam credits that are valid today.

Response 2: Once the rule is adopted, exam credits will be valid for 30 months from the day the section is passed.

Comment 3: One commenter suggested the board consider applying the 30-month period to all future exams.

Response 3: The board agrees with the commenter, and will apply the 30-month period to all exam credits moving forward.

Contact

Department of Labor and Industry
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Montana Relay: 711

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Mike Johns, CPA, Presiding Officer, Board of Public Accountants

MONTANA
ADMINISTRATIVE
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DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-177.2

Summary

Implementing the LEGAL Act

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Labor and Industry (agency) published MAR Notice No. 2025-177.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 14.

On August 19, 2025, a public hearing was held on the proposed rulemaking via the videoconference and telephonic platform.

Final Rulemaking Action – Effective September 13, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (24.15.615) MEDIATION AND HEARING REQUESTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Several commenters expressed support for the rulemaking and the clarifications it provided.

Response 1: The comments are appreciated.

Contact

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Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-240.2

Summary

Work-based learning grants

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Labor and Industry (agency) published MAR Notice No. 2025-240.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 14.

On August 19, 2025, a public hearing was held on the proposed rulemaking via the videoconference and telephonic platform.

Final Rulemaking Action – Effective September 13, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

24.22.701 DEFINITIONS

Statement of Reasons

No comments were received.

Contact

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Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

PUBLIC EMPLOYEES' RETIREMENT BOARD

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-212.2

Summary

The rulemaking incorporates the Public Employees' Retirement Board's recent revisions of the Public Employees' Retirement System Defined Contribution plan document and State of Montana 457(b) Deferred Compensation plan document, adopted by reference respectively at ARM 2.43.3501 and 2.43.5101, and generally revises ARM 2.43.2104, 2.43.2301, 2.43.2311, 2.43.2324, 2.43.2610, and 2.43.4617 for clarity and consistency with current administrative practices.

Previous Notice(s) and Hearing Information

On July 11, 2025, the Public Employees' Retirement Board published MAR Notice No. 2025-212.1, regarding the proposed amendment of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 13.

No public hearing was held or requested.

Final Rulemaking Action – Effective September 13, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

2.43.2104 NEW MEMBERS

2.43.2301 PROCESS FOR PURCHASING SERVICE

2.43.2311 LIMITATIONS ON PURCHASES OF SERVICE

2.43.2324 GUARANTEED ANNUAL BENEFIT ADJUSTMENT COVERAGE

2.43.2610 DESIGNATION OF BENEFICIARY BY RETIREES, ALTERNATE PAYEES, AND CONTINGENT ANNUITANTS

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT

2.43.4617 DISTRIBUTION OF DROP BENEFIT

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT

Statement of Reasons

No comments were received.

Contact

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Rule Reviewer

Nicholas Domitrovich, Chief Legal Counsel

Approval

Maggie Peterson

President
Public Employees' Retirement Board

MONTANA
ADMINISTRATIVE
REGISTER

FISH, WILDLIFE AND PARKS

NOTICE OF ADOPTION OF EMERGENCY RULE

MAR NOTICE NO. 2025-335.1

Summary

Adoption of an emergency rule closing Kookoosint Fishing Access Site in Sanders County

Reason

The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(1) The Kookoosint Fishing Access Site is closed due to fire activity in Sanders County. The Knowles Fire started August 17, 2025, and has burned more than 275 acres as of Monday afternoon. The fire is burning along the Flathead River southeast of Paradise.

(2) The site closure is necessary to protect public safety and to facilitate firefighting operations.

(3) The closure will remain in place until the fire is suppressed and the department determines the site is safe for the public to use.

(4) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 17 of the 2025 Montana Administrative Register.

Effective Date

Tuesday, August 19, 2025

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025 at 5:00 p.m.

Contact

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ADOPT

The agency is adopting:

RULE 1 EMERGENCY CLOSURE OF THE KOOKOOSINT FISHING ACCESS SITE

(1) The Kookoosint fishing access site is located in Sanders County.

(2) The Kookoosint fishing access site is closed to public recreation.

(3) The closure of the Kookoosint fishing access site will remain in effect until the department determines that the affected area is again safe for public occupancy and recreational use. Signs closing the Kookoosint fishing access site and will be removed when the rule is no longer effective.

Authorizing statute(s): 2-4-303, 87-1-202, MCA

Implementing statute(s): 2-4-303, 87-1-202, MCA

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written requests may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be completed online at https://public.govdelivery.com/accounts/MTFWP/subscriber/new.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Committee Notification

The special notice requirements of 2-4-303, MCA, have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (www.legmt.gov), were contacted by e-mail on Tuesday, August 19, 2025.

Rule Reviewer

Jaime MacNaughton

Approval

Jeff Hindoien, Deputy Director

MONTANA
ADMINISTRATIVE
REGISTER

FISH, WILDLIFE AND PARKS

NOTICE OF ADOPTION OF EMERGENCY RULE

MAR NOTICE NO. 2025-341.1

Summary

Adoption of an emergency rule closing the Full Curl Wildlife Management Area in Sanders County

Reason

The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(1) The Full Curl Wildlife Management Area is closed due to fire activity in Sanders County. The Knowles Fire started August 17, 2025, and has burned more than 275 acres as of Monday afternoon. The fire is burning along the Flathead River southeast of Paradise.

(2) The site closure is necessary to protect public safety and to facilitate firefighting operations.

(3) The closure will remain in place until the fire is suppressed and the department determines the area is safe for the public to use.

(4) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 17 of the 2025 Montana Administrative Register.

Effective Date

Tuesday, August 19, 2025

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 26, 2025 at 5:00 p.m.

Contact

Kara Thompson
(406) 594-8071
Kara.Thompson@mt.gov

ADOPT

The agency is adopting:

RULE 1 EMERGENCY CLOSURE OF THE FULL CURL WILDLIFE MANAGEMENT AREA

(1) The Full Curl Wildlife Management Area is located in Sanders County.

(2) The Full Curl Wildlife Management Area is closed to public recreation.

(3) The closure of the Full Curl Wildlife Management Area will remain in effect until the department determines that the affected area is again safe for public occupancy and recreational use. Signs closing the Full Curl Wildlife Management Area will be removed when the rule is no longer effective.

Authorizing statute(s): 2-4-303, 87-1-202, MCA

Implementing statute(s): 2-4-303, 87-1-202, MCA

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written requests may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth

Avenue, Helena, MT 59620-0701, or may be completed online at https://public.govdelivery.com/accounts/MTFWP/subscriber/new.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Committee Notification

The special notice requirements of 2-4-303, MCA, have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website 9www.legmt.gov), were contacted by e-mail. on Tuesday, August 19, 2025.

Rule Reviewer

Jaime MacNaughton

Approval

Jeff Hindoien, Deputy Director